

Female Genital Mutilation and The Dilemma of Consent

Consent is acceptance. To say that we wait till one is above 18 years old to give consent to a harmful practice like Female Genital Mutilation (FGM), is ideally legitimizing the act – argues Asenath Mwithigah, of the “Girl Generation” during the February 2018 Gender Forum panel discussion by the Heinrich Boll Stiftung.

Every year approximately 3 million girls undergo female genital mutilation globally according to the statistics by the World Health Organization (WHO). What this essentially means is that parents of more than three million girls allow their daughters to undergo female genital mutilation (FGM) in order to conform to social traditions. Individual families who opt not to have their daughters undergo FGM, risk stigmatization and social exclusion, particularly in communities where the practice is rampant. Globally, it is estimated that around 200 million girls and women alive today have undergone some sort of Female Genital Mutilation.

FGM is defined by the World Health Organization as “all procedures involving partial or total removal of the female external genitalia or other injury to the female genital organs for non- medical reasons.” Rationales behind the practice of FGM vary with justifications for the practice including cultural, moral, social, financial and sexual reasons.

FGM affects the physical and psychological health of girls and women, risking their lives at the time of the act, at marriage, during birth; and decreasing their attendance and performance in schools, among several other dangers. This scenario informed the forum discussion organized by Heinrich Boell Stiftung on February 27th 2018 in commemoration of the International Day for Zero Tolerance to FGM, which took place on February 6th 2018. The forum served as a great platform to highlight the progress being made in fighting the vice, the challenges and emerging trends; and sought to trigger conversations within the broad context of “Female Genital Mutilation and the Dilemma of Consent.”

Not everyone understands FGM as a form of violence and Dr. Tammay Esho, one of the panel discussants - started by explaining the different forms of the cut and its effects. This helped in explaining and emphasizing why the practice was and is a gross violation of human rights. People have assigned names to the various types of FGM all of which fall under the umbrella term “mutilation” but the practice at its most extreme is called “infibulations”, where someone takes a blade and shears off a girl’s genitals and then stitches her together until she is married and declared ready for sex, whether she’s willing or not. One cannot imagine the excruciating pain, during the practice and after, hence the outcry and the need for collective engagements in ending the vice.

Female Genital Mutilation was legislatively banned in Kenya 16 years ago in 2001 and since then various interventions, including the enactment of Prohibition of FGM (2011) Act have been put in place to curb the practice by both government and the civil society. However, the enforcement of the anti-FGM law still remains a hurdle. Statistics in Kenya reveal that the practice still continues, with 21% of women and girls aged 15 – 49 years undergoing FGM annually. Prevalence rates remain high for instance, amongst the Maasai communities at 78%, Kisii 84% and Samburu 86%.

Has the law had any effects in curbing the retrogressive culture, mostly in the communities with high prevalence? Jean Paul Murunga, a panelist from Equality Now discussed the existing legal

framework in Kenya and its effectiveness or the lack of it thereof, in comparison to other countries. He picked lessons from other countries like Burkina Faso that have made progress in fighting the vice. FGM was embedded and ingrained within the customs and cultural practices of Burkina Faso yet today, Burkina Faso is a shining example of a country that is effectively tackling and curbing the vice. The prevalence rates among girls aged 15- 19 dropped by 31% over 30 years.

How did this happen? The government recognized that outlawing the practice would not be sufficient and any form of law enacted had to be coupled with initiatives aiming at changing the mindsets of the population. The effective implementation of the law is defined in their National Action Plan and initiatives in the field of social policy, education and public health. To strengthen law enforcement, capacity building is provided to police and members of the judiciary. Consequently, this has led to an effective enforcement and judicial process for the people arrested and prosecuted. Modules on FGM have been introduced in the education curricula for primary and secondary schools leading to a change in attitudes towards FGM while Political goodwill and support has played a huge role in all these. Involvement of the highest political authorities, the government, custodians of culture such as village and religious leaders, women groups, youth and local councilors has been effective in changing attitudes and reducing the cases of FGM while placing Burkina Faso in a leading position in the fight against FGM in Africa.

This then begs the question, whether political goodwill in Kenya and solid commitment in the fight against FGM exist.

There's a distinct disparity between what the legal framework provides and the reality when it comes to the fight against FGM, the commitment, support and efforts to be invested. Legislatively, the children's Act 2001 forbade the practice in 2001 and opened a pathway to more comprehensive legislations purely on the subject, thus The Prohibition of Female Genital Mutilation Act, but enforcing the anti –FGM law still remains a hurdle. Participants in the forum directed questions on implementation at Senator Mercy Chebeni who was on the panel to present these views and concerns in parliament and rally for political support towards the same. The participants also highlighted the need to decentralize the anti-FGM board and push for discussions and consultations at the community level. At the regional and international level, Kenya has signed and ratified several protocols and conventions which speak to the elimination of Female Genital Mutilation. Has that had any impact, though? Esther Waweru a panelist from Solidarity for African Women's Rights (SOAWR) shared on the different advances being made on the international scene.

Going forward, the forum highlighted the need to intensify legal actions and enforcement of the law, collectively creating awareness on the dangers of the act with the aim of changing mindsets and encourage reporting through use of proper channels. There must be deliberate push for commitment to the signed and ratified international instruments and implementation of the interventions aimed at bringing sustainable social change. Concerted efforts need to be exerted by the community, policy makers, health care professionals and the citizens to eliminate this tragic practice. Collective action is vital in ending Female Genital Mutilation.

The Gender Forum is a monthly public dialogue convened by the Heinrich Böll Stiftung since 2001, encouraging dialogue on pertinent national issues with a gendered lens. The report was prepared by Bina Maseno, a Civic Educator.