ENGAGING COMMUNITY LEADERS & CAPACITATING LAW ENFORCES IS ESSENTIAL FOR WOMEN & GIRLS’ RIGHTS

Female genital mutilation - Early & child marriages - Safe abortion

UGANDA

NOVEMBER 2021
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HIGHLIGHTS

FEMALE GENITAL MUTILATION

- The estimated prevalence of FGM in women aged 15-49 is 0.3% in Uganda.
- Girls are typically cut at age 10 and older in tribes that practice FGM.
- The highest prevalence (6.4%) is in the Karamoja region in the north-east of Uganda.
- In contrast to many other countries, younger Ugandan women are more supportive of the continuation of FGM (12.8% of young women aged 15-19 support its continuation compared to 4.3% of women aged 45-49).

EARLY AND CHILD MARRIAGE

- Under the Children’s Act 2016 the minimum legal age of marriage is 18 years.
- 34% of girls are married by the age of 18.
- 7% of girls are married by the age of 15.
- Uganda has the 16th highest prevalence of child marriage in the world.
- Uganda has the 10th highest absolute number of child brides totalling to an estimated 4 million.
- In Uganda, 8.9 million girls aged 10–19, especially those that live in the rural areas, and among the less educated and low income households are at risk of child marriage.
- 25% of the 1.2 million pregnancies recorded in Uganda annually are from teenage mothers, with more than 300,000 pregnancies ending in unsafe abortions.

ACCESS TO SAFE ABORTION

- Abortion in Uganda is illegal unless performed by a licensed medical doctor in a situation where the woman’s life is deemed to be at risk.
- 5.3% of all maternal deaths result from abortion complications¹.
- An estimated 54 unsafe abortions per 1000 women of reproductive age occur annually.
- An annual loss of 25 billion Uganda shillings occurred as a result of post-abortion care and treatment from unsafe abortions in 2020.
- Within Uganda, abortion rates vary widely by region, from 18 per 1,000 women in the Western region to 77 per 1,000 in Kampala².
- The abortion rate for Uganda is slightly higher than the estimated rate for the East Africa region as a whole, which was 34 per 1,000 women in 2016.
- Approximately 85,000 women each year receive treatment for complications from unsafe abortion in Uganda.
- An estimated 57,000 abortions took place among Ugandan adolescents in 2013.
- An estimated 314,300 abortions took place among all Ugandan age groups in 2013³.
- More than 93,000 women were hospitalized for complications from unsafe abortion in 2015.
- The Abortion Rate is 28 per 1,000 women aged 15–19 in Uganda.
- Only 50% of the women who develop abortion complications in Uganda are able to reach facilities for post-abortion care.
This policy brief seeks to highlight female genital mutilation, early and child marriages as well as access to safe abortion in Uganda in relation to women and child rights. The paper addresses how widespread these issues are in Uganda and the efforts that the government and civil society are taking to ensure that women and girls’ rights are observed. This policy brief explores the public health and concerns surrounding FGM, child marriages and unsafe abortion in Uganda and discusses ways to make it both rarer and part of positive policy change.

The brief addresses the impacts of FGM, early and child marriages and access to safe abortion. The impacts include health, population, education, employment, agency, and violence, among other outcomes. The welfare, budget, and non-monetary costs of child marriage are estimated where data is available. Legal/institutional aspects and options to reduce the practice are also discussed.

The brief sets to draw recommendations and link them with existing strategies to curb FGM and child marriages while contributing towards access to safe abortion. The paper will contribute towards a pool of knowledge on FGM, safe abortion and child marriages including studies with innovative data-collection methods needed to inform project design and planning to protect girls and women’s rights. The brief highlights the adverse effects such as the health and economic costs of the three issues, the need for disaggregated data to inform campaigns and policies, understanding the root causes and a look of the legal and policy framework.
FGM consists of the (partial or complete) removal of the external female genitalia, and the infliction of other injuries to the female genitalia for no medical reasons. There are several variations, including partial or complete removal of the clitoris, or of the labia minora and majora, the narrowing of the vaginal opening by joining the two sides of the wound, leaving only a small opening for urine and menstrual fluids, and any other non-medical injury such as scraping, incising, pricking or burning. FGM causes pain, infection, problems with sexual intercourse, problems with urination, problems with childbirth, and death.

FGM is mostly practised by the Sabiny and the Pokot tribes of Uganda. More than 80% of Ugandan women think the practice should be stopped. Due to the low prevalence of FGM in Uganda, there is limited information of the practice in the country. FGM is performed by older women called ‘surgeons’, but they have no medical training. The Sabiny primarily practice Type II; the Pokot Type III. FGM is near-universal (95%) among the Pokot, and is estimated at 50% among the Sabiny, but the prevalence of FGM across the entire country is less than 1%. ‘Genital elongation’ (categorised as FGM Type IV) is also practised in Uganda (for example, among the Baganda). Survey data suggests no difference in FGM prevalence between women aged 15-49 who live in urban areas and those who live in rural areas. However, support for discontinuation of the practice is higher among women who live in urban areas (90%) than those who live in rural areas (80.3%). Between 2006 and 2011, the prevalence of FGM appeared to increase from 0.6% to 1.4%. However, this increase is not statistically significant and may simply reflect the limitations of the survey data, which comprised only small numbers of women who had experienced FGM. The data suggests that the prevalence remained fairly constant at around 1%, and the latest DHS data, from 2016, reports it as 0.3%. In contrast to many other countries, younger women are more supportive of the continuation of FGM (12.8% of young women aged 15-19 support its continuation compared to 4.3% of women aged 45-49). Better-educated women are less likely to support the continuation of FGM (6%) than those with little education (11.1%), and women in the highest wealth quintile are less likely to support its continuation (5.4%) than those in the lowest wealth quintile (13.1%).

Data readily available for Uganda does not give any indication of the number of women or girls who may have been subjected to FGM by a health worker. Section 3 (Aggravated female genital mutilation) of the FGM Act 2010 states that, if FGM is carried out by a ‘health worker’, it is classified as ‘aggravated FGM’ and the perpetrator is liable on conviction to life imprisonment.

Uganda shares borders with other countries where the existence and enforcement of laws varies widely, including Kenya, South Sudan and Tanzania. The movement of families across borders to perform FGM remains a complex challenge for the campaign to end FGM in East Africa, and girls living in border communities, such as the Pokot and Sabiny communities on the eastern border with Kenya, are particularly vulnerable. Recent reports have suggested that uncut, married women in Uganda are under increasing pressure to undergo FGM from their husbands and society because they are not allowed to participate in community life, such as serving elders, collecting food and attending traditional meetings, despite the protections set by the law.

80% of women in Uganda think that FGM should be stopped.

It is essential we modernise and that our culture is not left behind. Education is the answer. The less ignorant we are, the more this practice will die out.

Mr Cheborion, Chairman of the Sabiny Elders Association
Child marriage is driven by gender inequality and the belief that girls are somehow inferior to boys. In Uganda, child marriage is exacerbated by:

- **Poverty and lack of opportunities**: Girls living in Uganda’s poorest households marry at a younger age than those living in the richest households. Some parents, especially in rural areas, see their daughter as a source of wealth as they can fetch bride price from the husband’s family, while relieving the financial burden on the family. In highly vulnerable households, some Ugandan girls seek marriage to cover basic needs, such as sanitary products.

- **Level of education**: Early marriage and teenage pregnancy are linked to low levels of secondary school retention for girls. Some parents in Uganda feel that educating a girl is a waste of time and resources when she will ultimately marry and gain lifelong security.

- **Traditional harmful practices**: Arranged marriages for girls are common, often as a way to consolidate powerful relations among families. Some families marry off their daughters to protect them from early sexual encounters and safeguard the family’s dignity. Studies have also found that communities perceived girls to be ready for marriage when they develop breasts or when they have started menstruating. Female Genital Mutilation and Cutting (FGM/C) is also considered a sign of readiness for marriage.

- **Adolescent pregnancy**: Adolescent pregnancy precipitates child marriage and is also a consequence of it. Uganda has one of the highest rates of adolescent pregnancy in the world, which is the result of both consensual and forced sex. Girls who become pregnant while still in school are often forced to drop out. Without education, and because pregnancy outside of marriage is stigmatised and associated with embarrassment or disgrace, they and their parents may see marriage as the only option – for both the girl and the boy or man who impregnates her.

- **Intergenerational and transactional relationships**: These are relatively common in Uganda. For some girls, having a man, typically older, who is able to provide food, clothing, school fees and other material goods is seen as desirable and an escape route out of poverty. In many cases, these relationships are seen as consensual but, in reality girls may find themselves vulnerable with regard to such relationships, which can lead to long term arrangements including child marriage and early motherhood.

- **Orphanhood**: In Uganda, orphaned girls have greater odds of early marriage. At least 32% of households in Uganda have foster or orphaned children. Caregivers of orphaned or foster children who find it difficult to meet the needs of the family may resort to early marriage to relieve financial pressures. Additionally, girls in households headed by children (below age 18) are more vulnerable to being married early than those in households headed by adults.
Abortion in Uganda is illegal unless performed by a licensed medical doctor in a situation where the woman’s life is deemed to be at risk. With women lacking access to safe and legal abortions, many of them turn to unsafe abortion practices, such as self-induced abortions. There are many legal and socioeconomic barriers to safe abortion and other family planning services, which often result in women using unsafe abortion methods and being deterred from seeking post-abortion medical care. Contraception is also not commonly used or easily accessible, which leads to Ugandan women having more children than they desire and increases the number of women resorting to unsafe abortions.

Post-abortion care is not explicitly criminalized in Uganda. In fact, healthcare providers who treat women for bleeding, infections, or other post-abortion complications are forbidden by law from interrogating their patients or reporting them to the authorities. However, the police often does not care to differentiate between abortion and post-abortion care, leading to healthcare workers who provide either being punished just the same.

Eighty per cent of the Ugandan population are Christian, and faith-based institutions, particularly the Catholic Church, strongly influence abortion discourses. In Uganda, an estimated 54 unsafe abortions per 1000 women of reproductive age occur annually. Legal restrictions prevent state and non-state actors from developing health system capacities to respond to abortion care needs, and this result in discrimination against women with abortion care needs other than Post Abortion Care as permitted by policy.

Unclear abortion laws in Uganda leave women who are raped unsure of options.
In December 2010, the Ugandan Government passed legislation that specifically prohibits the practice of FGM (The Prohibition of Female Genital Mutilation Act 2010). Implementation of the law and its enforcement remain a challenge, however. The practice continues in very remote rural areas, often in secret, and reports suggest that, although there have been arrests, few actual prosecutions take place in Uganda.

Uganda’s Constitutions prohibits violence against women and girls as well as harmful practices. Uganda has a mixed legal system of English common law and customary law. The Constitution of the Republic of Uganda (1995) protects women and their rights under Article 33 and specifically prohibits under 33(6) ‘Laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status . . . ’. Further, Article 44 states that no person shall be subjected to any form of ‘torture and cruel, inhuman or degrading treatment’. National legislation provides a clear definition of FGM. And criminalises the performance of FGM. Legislation also criminalises the procurement, arrangement and/or assistance of acts of FGM. The failure to report incidents of FGM is a crime and so is the participation of medical professionals in acts of FGM. Of particular note is the criminalisation of the practice of cross-border FGM.

In 2016 the East Africa Community (including Kenya, South Sudan, Tanzania and Uganda) enacted the East African Community Prohibition of Female Genital Mutilation Act (EAC Act) 15 to promote cooperation in the prosecution of perpetrators of FGM through harmonisation of laws, policies and strategies to end FGM across the region. Uganda signed and ratified the Convention on the Rights of the Child (1989) (CRC).

Under the Uganda Children’s Act 2016 the minimum legal age of marriage is 18 years as it defines child marriage as “any union whether formal or informal involving any person below the age of 18 years for the purpose of living as husband and wife “. In addition, Article 31 of the (amended) Ugandan Constitution sets the minimum legal age of marriage for both women and men at 18. However, the legal framework for marriage in Uganda is complex and it is unclear how provisions in civil, religious and customary law interact with each other:

- The Marriage Act (1904) for civil marriages sets the legal age of marriage is 21 years for women and men, but they can be married with parental consent at 18 years.
- Customary Marriage (Registration) Act sets the minimum age of marriage at 16 for girls and 18 for boys.
- The Hindu Marriage and Divorce Act (1961) Cap 250 sets the minimum age of marriage at 18 for boys and 16 for girls. Girls aged 16 require parental consent to be married.
- The Marriage and Divorce of Mohammedans Act 1906 does not set a minimum age of marriage.
The Ugandan Constitution, in Article 22, item 2 states: “No person has the right to terminate the life of an unborn child except as may be authorised by law. Abortion is thus criminalized in Uganda unless it is done by a licensed and registered physician to save a woman’s life or preserve the physical or mental health of the woman.

The Ugandan Ministry of Health’s 2006 National Policy Guidelines and Service Standards for Sexual and Reproductive Health and Rights lays out a number of specific cases in which women have the right to seek an abortion, including rape, sexual violence or incest, or when the woman has pre-existing conditions such as HIV or cervical cancer 10. However, many healthcare providers remain unaware of the expansiveness of cases when abortion is allowed, resulting in legal abortion access still being difficult.

Section 142 deems an attempt to procure an unlawful abortion is punishable by imprisonment of seven years, and Section 143 states that anyone who aids a woman in performing an unlawful abortion can be imprisoned up to three years.

Nonetheless, Section 217 of the Code provides that a person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon an unborn child for the preservation of the mother’s life. In addition, Section 205 of the Code provides that no person shall be guilty of the offence of causing by wilful act a child to die before it has an independent existence from its mother if the act was carried out in good faith for the purpose of preserving the mother’s life.

In 2015, stakeholders developed and launched national guidelines and standards to prevent maternal mortality due to unsafe abortion, but following resistance, these were withdrawn 6 months later11. Although the Government of Uganda ratified the Maputo Protocol on the rights of women, it did so with reservation to article 14(2)C on reproductive health and abortion ‘in cases of sexual assault, incest, rape and when pregnancy endangers a mother’s mental and physical well-being’12.
CAMPAIGNS

FGM

In 2010, just prior to the introduction of the FGM Act 2010, the organisation Law and Advocacy for Women in Uganda filed a petition in the Constitutional Court seeking declarations that the custom and practice of FGM is inconsistent with the Constitution of Uganda (1995) and violates various articles therein and, as such, should be declared unconstitutional. The petition was successful and uncontested. The responsibility of the judiciary in upholding the law and eliminating FGM formed part of the judgement and concluded, ‘The judiciary being part of the State machinery is enjoined to address this issue aggressively whenever it comes before court by involving innovative and progressive interpretation of the laws. Failure to do so would be tantamount to a breach by the State of its international obligations.

Work to end FGM in Uganda is overseen by the Ministry of Gender, Labour and Social Development. Together with the Ministry of Health and the National Population Council, it works in cooperation with national law enforcement, justice bodies and district governments and receives policy and programme advice from the National FGM Alliance. Strategies to tackle gender-based violence, including FGM, are set out in The National Policy on Elimination of Gender Based Violence in Uganda (2016) and its National Action Plan 2016–2021. In 2009, Uganda also joined the list of countries under the UNFPA-UNICEF Joint Programme to end FGM. Supported programmes include high-level engagement in parliament and among church leaders around FGM and the enforcement of the law, sensitisation campaigns through the media, cross-border advocacy meetings and targeted interventions in schools.

EARLY AND CHILD MARRIAGES

In 2015, the Ministry of Gender, Labour and Social Development launched the National Strategy on Ending Child Marriage and Teenage Pregnancy (2014/15 – 2019/20), which was developed in partnership with Girls Not Brides members and UN agencies. In 2018, the strategy was spread to 113 sub-counties in 15 districts, all of which made commitments in their 2019–2020 district budgets to ending child marriage.

In 2018 more than 114000 adolescent girls were reached with life skills education intended to keep girls in school, and more than 37500 people participated in community dialogues on adolescent issues such as child marriage. The Presidential Initiative for AIDS Strategy for Communication to Youth has been integrated into the National Strategy on Ending Child Marriage and Teen Pregnancy and rolled out in 11 districts.

ACCESS TO SAFE ABORTION

In 2006, Uganda’s Ministry of Health tried to update the Comprehensive Abortion Care Services section of Uganda’s National Policy Guidelines and Service Standards for Sexual and Reproductive Health and Rights. The update would have expanded the circumstances under which an abortion could legally be carried out to include cases of severe foetal abnormalities; criminal circumstances such as rape, defilement and incest; and health circumstances affecting the mother, such as cervical cancer, HIV or renal or cardiac complications. The law failed to pass. The ministry tried again in April 2015, releasing another set of standards and guidelines designed to reduce deaths and injuries from abortion-related complications. Consensus extending the circumstances under which abortion was allowed was reached after consulting with other government ministries and civil society groups. However, in December 2015, the Ugandan government recalled the guidelines once again, after objections from religious and cultural leaders who claimed they hadn’t been sufficiently consulted about the proposed changes.

The Global Programme to End Child Marriage, supported by UNFPA and UNICEF, ensured the delivery of an integrated package of right-based services for girls and women; fostering an environment where society takes steps towards respecting and protecting the rights of girls and women. We begin to see a change in attitudes and practices that perpetuate inequality of girls and women. In addition, UNFPA advocated for the Government of Uganda to fulfil their obligations to implement legislation and policies to eliminate child marriage, promote rights- and equity-based services.
UNICEF’s Uganda-Kenya cross-border partnership rescued girls from female genital mutilation during COVID-19. Kenya and Uganda share a porous common border and the COVID-19 lockdown had weakened some of the structures or one could say there was more emphasis on COVID-19 than other issues such as FGM. Despite the travel restrictions, using the porous border, the girls crossed from Uganda to Kenya on their search for an FGM ‘surgeon’. The health system and civil society were negatively affected with a decrease of services offered or interventions implemented at the community level. The use of dialog forums, radio talk shows and the use of local champions were noted as examples of alternative approaches of reaching girls and women at risk. There was nonetheless still a gap in how services can be offered at the community level given the COVID-19 restrictions. In Uganda, the pandemic had negatively affected interventions by the justice and legal system with community members mentioning inadequate reporting by victims as the main barrier to effective response by the justice and legal system. However, the health system and civil society’s response to FGM during the pandemic was impressive with alternative approaches such as radio talk shows and call centres being used to reach girls and women at risk.

COVID-19 has upended the lives of children and families across the Uganda and adversely affected programmes to end child marriage. The pandemic is having a devastating effect on families, communities and economies. In the medium to long term, the threat of child marriage is far greater when communities are affected by economic shocks and have limited access to basic services such as health, education and child protection, all of which are being negatively impacted by the pandemic. UNFPA estimates indicate that COVID-19 will disrupt efforts to end child marriage. Emerging evidence shows that adolescent girls are being severely impacted by the pandemic and are experiencing increases in violence, child marriage and teenage pregnancies, driven partially by school closures and limited access to sexual and reproductive health services. In Uganda, mobilization and engagement with men and boys’ groups, where gender equity and social norms are discussed, have been put on hold due to social distancing measures. Activities such as a UNFPA planned social behavioural change communication baseline study on child marriage in development and humanitarian contexts were put on hold until movement restrictions are lifted.

Despite positive advancements in health services, sexual and reproductive health remains one of the greatest difficulties confronting young people and individuals, the majority of whom do not have access to modern contraception, and such cases increased because of COVID-19. The pandemic threatens to undermine the progress due to its unfair, cumulative, and catastrophic impact on the already marginalized populations. With the progress in the health system in general, there is a massive pushback against gender equality and the overall achievement of sexual reproductive health and rights. Before COVID 19, major steps in institutionalizing Sexuality Education (SE) in schools were underway, including the historic launch of the National SE Framework in 2018; development of the SE Operational Guidelines; and development of resource materials (training guides) for teachers and a SE package for students. The SE standards for out-of-school youth, as well as the Youth Engagement Strategy on SRHR, were also validated and are now in line with the National Parenting Guidelines. The shutdown of schools has made it difficult for students to receive comprehensive sexuality education.
Virtual community engagement has been important especially where face-to-face traditional community engagement is no longer possible in some parts of Uganda due to covid-19. UNFPA, UNICEF and partners are finding innovative ways to continue to engage with communities. For example, in Uganda, para-social workers have been using phone calls to continue virtual community engagement for one-on-one interaction with vulnerable adolescent girls including, identification, assessment, referral to the multi-sectoral case management system for response services, the Child Helpline and follow-up on at-risk girls and families. In Uganda, audio messages on child marriages are being shared by 20 radio stations, the Child Helpline, television, social media, text messages and U-Report. These messages have been translated into over 24 local languages. There is limited media engagement on the issue of safe abortion due to the legal restrictions.
CONCLUSIONS AND RECOMMENDATIONS

FGM

There is need to improve police access to remote communities where the continuation of FGM is fiercely protected by traditional groups. This can be further supported by a high turnover of police officers and the need for ongoing high-quality training on FGM. The government needs to raise awareness of the content and meaning of the law in practising communities. Use of community policing forums will curb the fact that women and girls are being cut in secret in hidden and remote locations to avoid prosecution. Uganda must enforce the legal age of marriage at 18 regardless of gender.

LAW ENFORCEMENT

Relevant ministries supported by civil society need to improve collecting evidence, including medical, to support prosecutions. There is need to provide for an increasing number of girls running away from home to avoid FGM and seeking shelter and protection.

COLLECTIVE ACTION

Providing alternative sources of income to traditional cutters by the Treasury who continue their trade despite the law is important, as it is their primary source of income. The uncontrolled movement across national borders for FGM also remains a significant challenge undermining efforts to end the practice in the region. Observations of Ugandans crossing into Kenya with no fear of arrest continue, as the Kenyan ban on FGM is allegedly not enforced in these areas. The Government of Uganda, with the help of community leaders, traditional elders and religious personalities should come together and raise nation-wide awareness on the importance of educating children, especially girls, and inspiring them to live fulfilled lives through self-reliance.

MINISTRY OF FINANCE
 EARLY AND CHILD MARRIAGES

There is need for increased funding of education, to ensure national COVID-19 plans respond to more than just the health crisis – they must make education a priority and ensure safe and accessible education for every child. Children who return to school should be able to do so safely, with access to school meals and health services. Curriculums must be adapted so that children can make up for their lost learning. Increasing access to education and changing the mind set can end child marriage in Uganda. Boosting employment opportunities for the youth should go together with access to education. Creating vocational schools where youth and unemployed adolescents can develop technical skills that are competitive in the jobs market, can give them the opportunity to pursue careers and make a living rather than ending up in an inadvertent marriage. Fighting against child marriage in Uganda requires work across all sectors, from the public and private to academia and individuals at all levels.

INVESTING IN EDUCATION

An unintended pregnancy is the most commonly cited reason that Ugandan women seek abortions. Thus, family planning programs are one way to lower the prevalence of illegal and/or unsafe abortions. The demand for modern contraception especially emergency contraception is still unmet. Many Ugandan women cite a lack of access to family planning services or information as an explanation for not using contraceptives, hence the increase in unsafe abortions. Uganda needs to align national maternal health priorities to the Sustainable Development Goals, global networks like Reproductive, Maternal, Neonatal, Child and Adolescents Health (RMNCAH) to support maternal healthcare programming.

ACCESS TO SAFE ABORTION

Mapping of generated data and evidence is necessary for prioritizing programme interventions for adolescent girls including out-of-school girls and girls in refugee settlements who are at risk of child marriage, linking them to life skills and government empowerment programmes such as the youth programmes. In a setting like Uganda, where human resources are constrained, it is only reasonable that skilled and trained mid-level health workers be permitted to provide lawful and safe medical abortions. The communities in which girls and women live play a significant role in the prosecution of cases relating to abortion. When a girl gets pregnant, her first point of call is either a close and trusted family member or a neighbour in the local community. The same communities can be lobbied to campaign for safe abortion through producing relevant statics.
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Engaging Community Leaders & Capacitating Law Enforces is Essential For Women & Girls’ Rights

Female genital mutilation • Early & Child marriages • Safe Abortion

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