

Expert Group Meeting on Legal reform to prohibit; prevent and respond

to all forms of Violence against children

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Egypt's Legal reform

To

Combat Female Genital Mutilation

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Female Genital Mutilation is one of the long lived practices; passed down generation after generation in violation of the fundamental human rights of girls. On 7 June; 2008 The Egyptian Parliament passed a law criminalizing FGM and any form of cutting of the female organs. It is one component of a most comprehensive rights based legal reform in Egypt's history. I am honoured to have initiated; led and coordinated this legal reform. I would like to talk about two aspects of its components; namely the process and the content. I will also touch on the follow up and assessment and the challenges that still lie ahead.

First: The process of the legal reform:

While Laws should lead societies forward; their development and effectiveness are constrained by the prevalent culture, and as such laws can only reflect what society is willing to approve. This paradox has informed Egypt's national efforts to criminalize FGM (among other forms of violence) as an integral part of its efforts to harmonise legislation with the Convention on the Rights of the Child. The legal reform has turned into a societal movement. The process of the reform has created a space for a wide range of stakeholders. Our starting point was advocacy around children as subjects of rights. The process; which took 5 years started by providing access to information; education; awareness raising; interactive debate and bottom up community participation both at the national and local levels. Through a rights based approach; we focused on responding to the public's fears and inquires in a holistic manner. The program's success is attributed to the fact that decision making at the national level was guided by the breakthrough at the grassroots level.

The process witnessed key interventions focusing on:

1. Civil Society Partnership & Community Initiatives
2. Egyptian Families saying no to FGM; become the heroes
3. Breaking the Media Taboo
4. A Public Opinion Supporting criminalization of FGM,
5. A Positive Anti – FGM Religious Dialogue:
6. National hype against FGM as we enlisted the aid of Islamic scholars and health care workers, lawyers; media professionals working to disperse misconceptions
7. Youth as Agents of Change;

The process lasted 5- 6 years of very intensive work on the ground; explaining why we need the reform and its benefits.

Second: Content of the legal reform to combat FGM:

It was not all in one law. It spread over two laws.

First: Umbrella provisions under the Child Law number 126/ 2008:

- 1- Article 1 provides that “the State **ensures as a minimum, the rights provided for by the Convention on the Rights of the Child CRC**; its optional protocol on Sale of Children; child prostitution and Pornography; and on involvement of children in Armed Conflict and other international treaties enforced in Egypt”.
- 2- Article 3; guarantees the rights enshrined in the four core values or Principles of the CRC; namely the right to Non Discrimination (Article 2), Best Interest of the Child (Article 3), Right to Life, Survival and Development within a family empowered to provide protection of the child from any form of violence or harmful practices (Article 6) and the Right of the child to be Heard (Article 12). Articles 1 & 3 alone are capable to bring about a paradigm shift in the status of exploited and abused children.
- 3- Article 7 *bis-a* “prohibits to deliberately expose the child to any physical abuse, illegal or **harmful practices**”.
- 4- Article 96 considers “the child falls at risk if the child’s safety, morals, health, or life was jeopardized.... The perpetrator shall be liable to punishment with imprisonment for a period not less than six (6) months, and a fine of not less than two thousand (2,000) Egyptian pounds, and not exceeding five thousand (5,000) Egyptian pounds, or by either of the two penalties.
- 5- Article 98-bis ⁽¹⁾ Anyone who comes to know that a child is jeopardized, should provide such child with whatever urgent assistance... , adequate to avoid this child from such danger or remove it”. The violation will be reported to the protection committee or *the child help line or to the police to take action.*
- 6- Article 116-bis (2) “*The minimum penalty stipulated for any crime (under the child law) shall be doubled, if the crime is committed by an adult against a child, or if it is committed by one of the parents, or by the child’s guardians, or by people in charge of*

¹ Added by Law no. 126 of 2008

² Added by Law no. 126 of 2008

supervising or upbringing the child, or by those who have authority over the child, or by a servant to any of the above mentioned.

Second: FGM Specific Provision added by virtue of the legal reform targeting children to:

The Penal Code Promulgated by Law no. 58 of 19373

Article 242-bis was added, and reads as follows:

Notwithstanding Article 61 of the Penal Code, and without prejudice to any stricter penalty prescribed by another law, anyone who caused the injury which is punishable by Articles 241, 242 of the Penal Code, through performing female genital mutilation, shall be liable to punishment with **imprisonment for not less than three (3) months and not exceeding two (2) years**, or with a **fine of not less than one thousand (1000) Egyptian pounds, and not exceeding five thousand (5000) Egyptian pounds**.

This article coupled with article 116 bis of the child law means that the minimum punishment for FGM is 2000 pounds and six months imprisonment.

Third: Law enforcement:

Enforcing the law meant empowering the grassroots to report any violation. The Child help line as a complaint mechanism played a crucial role in bringing violators to justice. The media encouraged reporting as well. Anti-FGM messages are being incorporated in educational curriculums. The prosecutor general played an instrumental role in enforcing the law. He issued circulars to prosecutors interpreting the law in a manner that closed any lope holes. The hype was vigorously maintained and voices of defenders of the practice were nearly silenced. Reporting violations was very positive and led to prosecution of perpetrators. An entire program on VAC was allocated to capacity building of professionals working with and for children on the implementation of the law.

Fourth: Indicators of success:

1. FGM Practice is shrinking among new generations:-
2. Media Silence on FGM Broken
3. Village Communities saying "No To FGM"
4. An Enlightened Religious Dialogue that addresses the Rights of the Girl Child
5. A Youth Anti- FGM social Movement

³ This gives it more weight and prominence.

Fifth: What is next ?

Impact assessment of the legal reform started from day one of its entry into force. Prosecution of perpetrators has been very active. Assessment showed that in most cases reports take place mostly when medical complications happen. The legal reform needs to be completed to stop parents' impunity. It also needs to be supported by consistent advocacy to create awareness about its provisions, enforcement and monitoring mechanisms. It still needs to be complemented by educational reform; appropriate financial resources and coordinated efforts of entities working for and with children such as child local protection committees. An impact assessment of legislation on children, before and after law enactment should continue with the same vigour.

Fifth: The popular uprising of 25th January 2011 and its impact:

Egypt is going through great but testing times. The Egyptian youth have spontaneously and without one leader planned and led the uprising. The Egyptian Spring promises great prospects for Egypt in the long term. Youth are empowered than ever and their voices are heard. The transitional period, however, carries many threats. Yet the uprising has brought to the surface very conservative religious groups. As the most organised groups; their voices are suddenly very loud and predominant. They are calling for reversal of some of the laws that ensure the rights of women and children; including criminalising FGM and raising the minimum age for marriage. Activists working on banning FGM are currently taking a very low profile, fighting FGM under different banners. Women's groups are fighting to maintain the gains achieved. The media is not paying enough attention to such issues as they are busy with the political and economic developments. The Committee on the Rights of the Child has recently considered Egypt's report. The concluding observations of the committee will help exercise pressure to maintain the gains.