Female Genital Mutilation as Grounds for Asylum

UK immigration officers do not sufficiently recognise the threat of Female Genital Mutilation (FGM) when deciding asylum claims, putting young girls at risk FGM by deporting families back to their countries of origin.

FGM is defined by the World Health Organisation as “all procedures that involve the partial or total removal of the female external genitalia, or other injury to the female genital organs.”¹ This might include sewing closed the vaginal opening, cauterising the area or pricking the clitoris. It is a cultural rather than a religious practice, which has no medical benefits and causes extensive physical and psychological damage, and in some cases the procedure leads to death. 125 million women and girls around the world have already been cut, and a further 30 million are at risk.² FGM is prevalent across Africa and the Middle East. In Somalia, 98% of women and girls have undergone FGM, in Guinea 97% and 93% in Djibouti.³

The dissemination of misinformation surrounding the ‘benefits’ of FGM allows this practice, which ultimately seeks to control women’s bodies and female sexuality, to continue. Although FGM is widely culturally acceptable and actively encouraged within communities in which it is prevalent, it is a form of torture. Women who are not cut are socially excluded, as they are considered impure, unclean and promiscuous. This gendered discrimination is perpetuated by some religious leaders, and allowed to go unpunished by the inaction of police and other public officials in countries such as Nigeria, where FGM is now illegal but the practice continues. The UN Special Rapporteur on violence against women stated that international law “views cultural practices that involve pain and suffering and violation of physical integrity as amounting to torture,” clearly defining FGM as torture.⁴

Gender-based violence in the asylum claim

The threat of FGM provides strong grounds for claiming asylum, yet many women are not granted protection if their evidence rests primarily on being at risk from this form of gender-based violence. The women’s rights charity FORWARD suggests that claims based on FGM may be rejected because immigration officers at the UK Visas and Immigration department, who process asylum applications, are concerned about opening up ‘floodgates’ to female victims of violence across the world. As so many women suffer brutal and degrading treatment, such as FGM, the authorities are concerned

³ UNICEF.
that setting a precedent of offering refuge to victims of gendered violence will cause unmanageable numbers of female asylum seekers to arrive at UK borders, yet this fear is unfounded.5

Such concern does not take into account the reality that often women lack the economic resources to leave their countries and seek protection. Women form a minority of asylum claimants; in 2012 only 28% of asylum applicants in the UK were female.6 This could be due to lack of education or knowledge of the asylum system. Equally, it would be far more difficult for a woman to leave her country of origin if she is fleeing a society in which her rights and movements are restricted due to her gender.

Additionally, the UK is under international obligation to provide all victims of torture with protection, however many arrive at its shores. Article 3 of the UN Convention Against Torture dictates that no state will expel or remove a person who is considered to be at risk of torture upon return to their country of origin.7 Considering what FGM amounts to, this clearly indicates that women who are at risk of FGM should not be deported back to their country of origin.

Further, the UK government’s own guidelines on gender issues in asylum claims assert that FGM is a form of persecution from which women should be offered protection. This includes cases where although the practice of FGM is illegal in the claimant’s country of origin, the state is unlikely to provide security to the applicant. The guidelines explicitly state that “the fact that violence against women is common, widespread and culturally accepted in a particular society does not mean that protection on an individual basis is inappropriate.”8

Although there are obvious legal and moral obligations for the UK to provide a safe haven for those at risk of FGM, these are not being honoured by immigration officers. This endangers the lives and health of women and girls who have a valid reason to claim asylum in the UK. Sociologist Hilary Burrage, who campaigns to end FGM, stated “there is little for Britain to be proud of about UK responses to female genital mutilation as grounds for asylum.”9 UK nationals are protected from this practice by law, both within the country’s borders and abroad.10 However, this protection is not being adequately extended to those who seek asylum in Britain to avoid FGM.

Children at risk

5 FORWARD, Female Genital Mutilation as Grounds for Asylum, <http://www.forwarduk.org.uk/key-issues/fgm/fgm-asylum>
6 The Migration Observatory, <http://migrationobservatory.ox.ac.uk/briefings/migration-uk-asylum>
9 Hilary Burrage, <http://hilaryburrage.com/2014/05/19/uk-home-office-has-no-data-on-fgm-asylum-claims/>
In spite of the clear case for offering asylum to those who face the possibility of FGM if they return to their countries of origin, the UK government is not doing enough to protect women and girls from these nations. The following evidence indicates that many claims are rejected, often on the assumption that internal relocation and the legal system of the country from which the claimant fled will be able to prevent this abuse from taking place.

The refugee agency of the Human Rights Council found that in 2011, a total of 8795 women claimed asylum in the UK. Out of the total claims made by women, 2410 (27.4%) were on the grounds of being at risk from FGM. Of these women, only 640 (26.5%) were offered asylum, and it is estimated that for around half of these cases, the risk of being subjected to FGM was not the primary reason for the applicant’s success. Just over two thirds of all asylum claims are initially rejected, yet almost three quarters of cases involving FGM are thrown out, indicating that the asylum system unfairly disadvantages women escaping gender-based torture.

Binta Jobe applied for asylum in 2010 as she feared her husband’s family would force her baby daughter to undergo FGM. Her last appeal was turned down in 2012. She is from The Gambia where FGM is still legal and 76% of women and girls are survivors of FGM. The UK Border Agency ruled that Binta “could live safely elsewhere in the Gambia and that the law provided sufficient protection.” They recommended that she relocate internally and she was deported, despite the inability of the UKBA to guarantee the safety of her daughter upon their return to the Gambia.

Olayinka Olatunde came to Britain at the age of 14 with her mother and two brothers and claimed asylum in 2010. They left Nigeria after attempts were made by her father’s family to kidnap Olayinka and force her to undergo FGM, despite the fact that her elder sister bled to death following the procedure. Although there is evidently great risk to Olayinka’s mental and physical wellbeing should she return to Nigeria, her claim was rejected. The fear of being deported and facing FGM caused Olayinka to attempt suicide in 2013, as she would rather die than endure such torture.

In June 2014 Afusat Saliu, a survivor of FGM, was deported back to Nigeria with her two young daughters after losing her battle to remain in the UK. In Nigeria 25% of women and girls are survivors of FGM, although the practice is far more widespread in certain communities and almost

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12 Not her real name.
14 UNICEF.
15 Pugh.
non-existent within others.18 While pregnant, Afusat fled to Britain in 2011 with her eldest daughter after her stepmother threatened to have the child cut. Afusat explained why she came to the UK, saying,

“I don’t want my daughters to be mutilated like I was. That will happen if I take them back, I know it because it is the culture of my family. They believe in it and I will not be able to do anything.”19

Now her claim has been rejected and both of her daughters are in danger of being irrevocably harmed.

**Government indifference**

The treatment of asylum claims based on the threat of FGM is indicative of broader issues within the asylum system, namely, the ‘culture of disbelief’ which hinders claimants and the need for greater gender-sensitivity. Immigration caseworker, Lauren Butler, argues that the “wilful ignorance and cultural disbelief” of immigration authorities is putting children at risk, as they refuse to recognise the prevalence of FGM and implicitly trust the ability of authorities to offer sufficient protection to women who are deported to their countries of origin.20

The fact that so many women who sought to escape FGM have been deported reveals the indifference of the British establishment to female suffering beyond its borders. Discrepancy between the legal protections from FGM offered to UK nationals and to female asylum seekers indicates that as long as this torture is not being inflicted on British bodies, the government is not greatly concerned. Although the government is taking action against FGM, the measures announced at the recent ‘Girl Summit’ focus on eradicating FGM domestically.21 This highlights how little has been done to undermine the strength of global systems of oppression that support a hierarchy in which women from developing nations remain firmly at the bottom. Human rights lawyer, Peggy Layoo, denounces the UK’s reaction to FGM in asylum claims, saying,

“It is a denial of the suffering of women in the third world. We all know that FGM is going on, yet the government does not want to do anything about it.”22

The British government has, to a certain extent, committed to supporting the eradication of FGM globally. In 2013 the UK Department for International Development launched an investment

18 UNICEF.
20 Pugh.
22 Pugh.
program of up to £35 million across 15 countries, with the aim of reducing the prevalence of FGM. However, as this figure represents less than 0.5% of the UK’s total annual aid expenditure, this gesture has been accused of ‘tokenism’.

The European Convention on Human Rights and the UK guidelines on gender issues in the asylum claim both clearly designate FGM as a form of torture from which all women should be offered protection. Human rights are for everyone, regardless of gender, ethnicity, race, or any other aspect of difference. The UK must afford women fleeing FGM the same treatment as UK nationals who are at risk from this hideous abuse.

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