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Comments Paper - Spain

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Comments Paper – Spain

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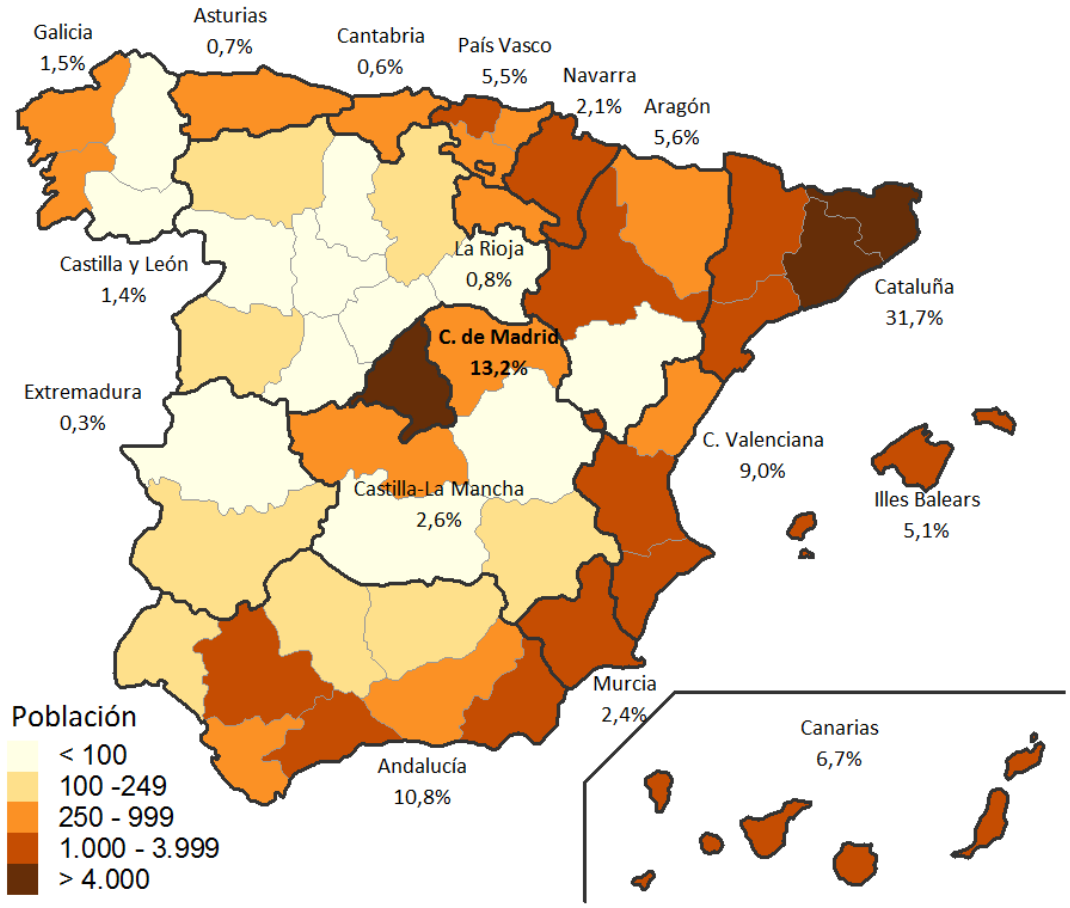
1. Introduction and country context: Spain

1.1. Geography and prevalence

In 2001, the first socio-demographic map of FGM in Spain[1] is published. Based on data from local Census, displays the population coming from the countries where FGM is practiced and its distribution in the Spanish territory regularly updated every four years (2005, 2009, 2013)[2]. This is an essential tool to know the magnitude and geography of FGM in the country, allowing the design and coordination of preventive and care interventions at a primary care level (health, social work and education), contributing to help policy makers in the developing of policies on the issue.

Data from 2012 identifies **57,251 women** (41 % more than 2008) and **16,869 girls** (61 % more than 2008) coming from countries where FGM is practiced, living in Spain. Girls could potentially be at risk of undergoing the practice while women may be suffering its health consequences. Cataluña and Madrid are the autonomous communities with the highest population. West African migrants are the most common origins: Nigeria, Senegal, The Gambia, Guinea Conakry, Ghana, Mali, Mauritania, Cameroon and Guinea Bissau.

[1] KAPLAN, A. y LÓPEZ, A. (2013) Mapa de la Mutilación Genital Femenina en España 2012 Antropología Aplicada 2. Servei de Publicacions Universitat Autònoma de Barcelona, Bellaterra.
[2] Servei de Publicacions Universitat Autònoma de Barcelona, Bellaterra.



Women
2012: **57,251** **+41 %**
Girls (0-14 years)
2012: **16,869** **+61.4 %**

1.2. Primary Care Services

For healthcare, social services, justice and education professionals, among others, this has meant discovering different cultural realities and facing new welfare challenges, under the framework of complex acculturation and social integration processes. FGM causes a negative social impact because it contravenes legal, medical and cultural principles, creates profound professional dilemmas and at the same time, stigmatises the populations that suffer from it, thus reinforcing prejudices and stereotypes. It is a problem that involves various institutions and makes necessary a cross-cultural approach, as well as to reflect upon its welfare, legal and preventative implications from an interdisciplinary point of view.

The first survey of health professionals in the province of Barcelona, Spain, showed that 56 % of those surveyed did not correctly identify the type of FGM, were not interested in the subject and their response to the question "What would you do if faced with an FGM case?" was "ignore it". 21 % of the sexual and reproductive health care programme personnel, 7 % of the paediatricians and 5 % of the general medicine professionals declared that they had detected or known of a case both in mothers as well as their daughters.

Primary Health Care, due to its proximity to families and the longitudinal approach of problems throughout one's life cycle, is one of the settings that are best situated for an initial work regarding FGM from a preventative perspective. Although difficulties can be expected which originate, above all, in the uncertainty about confronting a problem in which such diverse cultural, ethical and legal components are all involved. Administrations, professionals, NGO's and migrant's associations must attempt to diminish this lack of knowledge by properly training these professionals, instead of limiting to write protocols and act through coercive measures and policies.

Several tools like manuals and leaflets have been developed by Wassu-UAB Foundation to work with professionals and families. A "Preventive Commitment" was developed to follow sensitisation by primary care professionals to allow families that are travelling and do not want their girls to be taken by grandmothers to the bush. This document is shown to the elders without questioning their authority, being African societies, gerontocracy. The result is that 100 % of girls have travelled and come back intact. You can find all materials, publications, documentaries, etc. at www.mgf.uab.es.

1.3. The Transnational Observatory Wassu-UAB

The aim of the Observatory (with 2 research stations in The Gambia and Spain since 1989) is the development of a comprehensive methodology, culturally respectful, evidence-based and results-oriented, to manage and prevent FGM in origin and in diaspora. The result is an innovative and sustainable response to traditional methods, based on ownership, institutional strengthening and sectorial concentration, aligned with local policies and strategic international plans, which allows a better understanding of the practice, its characteristics and contexts, such as its prevalence, socio-cultural aspects, socio-demographic features and consequences directly related to the proceeding. These findings led to prioritise the strategy conducted towards the prevention of FGM/C, which, in line with the recommendations of the World Health Organisation (WHO), focuses on three areas: advocacy, building evidence and providing guidance.

Once the knowledge is gathered in the field through applied research, it is transferred in cascade to key social agents such as policy makers, health, social services and education professionals, health sciences students, community and religious leaders, Traditional Birth Attendants, and excisers, for them to be the ones transferring it to the society.

1.4. Legislation

In Spain, the first cases were detected in 1993 in the Catalonia region, where the highest demographic prevalence of African migrants live. They were reported by healthcare professionals and the girls' parents were given a not guilty verdict, alleging "they did not intend to harm and error juris". Since then, no new mutilations have occurred in Spain, although it is known that some families take advantage of holidays to their countries of origin to go through with their daughters' initiation.

FGM, in any of its forms, is considered aggravated assault and is classified and sanctioned under the legal system of the Spanish Criminal Code which punishes the crime with 6-12 years of prison for the parents and the girl child is taken under Welfare protection during 4-10 years. A law was approved which allows for extraterritorial persecution of those who carry out FGM, in other words, when the

crime is committed abroad. On the other hand, healthcare professionals who have knowledge of, but do not prevent these practices, may lead to their committing a crime of omission as it is their duty to prevent or promote its persecution.

2. Policy debate

The most common presentation of the problems associated with FGM is the announcement of an imminent trip to the country of origin by a family with girls of initiation age. This situation is essentially detected by health professionals, basic social services and schools. Police and judicial actions undertaken when made aware of a trip of at-risk girls consist of retaining their passports until they reach legal age, prohibiting them from leaving Spain and quarterly exams of the girl's genitals until they are 18 years old. Thus, people's rights to free movement and the minor's right to privacy are violated. Although justice must uphold the values of this society and human rights, it is also imperiously necessary to carry out prevention work with the families affected. Girls become double victims, of the tradition and the law. They have undergone the practice, and if their parents face imprisonment, they will need to be taken care in governmental institutions for unaccompanied minors. There have been some cases in Spain where preventive measures have sadly failed to avoid these circumstances.

There's been a wide development of guides and protocols, nationally and by autonomous communities, published by governmental and non-governmental institutions, to prevent FGM. There is a clear duplication of resources in this sense. However, these institutions have failed to provide an adequate training programme for primary care professionals on the management and prevention of FGM. When professionals are not trained, it's very difficult for them to tackle such a complex and sensitive issue without the understanding of the social and the anthropological aspects of the practice and models of preventive intervention related to it. In Catalonia, even if the national protocol is clearly emphasising the importance of preventive interventions in the first place, there is a punitive model leaded by the police, who sometimes are acting before preventive measures have taken place – as a means to control the families who travel and avoid FGM, not taking into account human rights as the liberty of movement. When appropriate preventive approaches take place, there is no need of police enforcement.

3. Transferability aspects

3.1. United Kingdom

As the United Kingdom, Spain has endorsed various international conventions on FGM of which include, the Convention on Rights of the Child and the Charter of Fundamental Rights of the European Union. In terms of national legislation, Spain has made criminal provision on FGM since 2003 as well as Child protection law which intervenes of minor's health. However, there are further good practices which can be employed in Spain.

The United Kingdom has recognised the need for an across-the-board approach in terms of FGM prevention and protection. Within the UK's approach there are aspects which are potentially transferable to Spain. Specifically, this includes the

adherence to the Istanbul convention, raising awareness, training the relevant professionals as well as the involvement of the media and private sector.

Further transferable good practices include the research instructed by the Home Secretary. The study carried out is a key tool in assessing those who come from FGM practicing communities and their reluctance in coming forward to law enforcement officials to report potential cases of FGM. This is a good practice which is replicable and transferable in Spain.

The United Kingdom report clearly highlights that both politically and financially support for FGM is focused on law enforcement, which thus leads to a crisis-oriented thinking. Though the law on FGM has been in place since 2003, there have been no convictions of FGM although continuously cases have been seen through the health system. This is learning point for Spain, and shows that there is a need to seek for the underlying issues of FGM and focus on preventing further cases.

3.2. Italy

The Italian paper discusses that the Italian Policy calls for a holistic approach using different tools. They further went to disclose that even though legislation is needed it is not enough to prevent FGM. This holistic approach is a good practice which can be transferred to Spain.

The Italy approach spans across strategic plans in certain regions, training programmes and awareness campaigns. This is incorporated with monitoring of interventions. This is something which is seen as a need for the prevention of FGM in Spain. It is essential for trainings and other education interventions to be evaluated and monitored in. Despite this is written in the report, during the oral presentation in the Workshop, no evidence of M&E was shown.

The improvement of the evidence base of FGM is crucial in each country. This is something Italy seems to be working to improve. Research spans across different key target groups with a variety of assessments carried out. Following this was the training activities for the key target groups in certain areas of Italy. This good practice can be initiated in Spain; however, a more widespread approach can be taken so as not to miss out any practicing communities.

Furthermore, incorporation of Forced Marriage to Italy's strategic plan is an excellent example to combine harmful traditional practices where prevention is taking place.

4. Recommendations for action

The use of criminal law cannot be a substitute for social handling and a preventative approach to such a complex problem. In any case, they are complementary elements and recourse to justice or police persecution of families should not be an excuse not to try to find a preventative approach.

As regards FGM, there is a complex relationship between rights and cultural values which indicate that we cannot limit ourselves to applying punishments without more prevention. It may be that some of the control measures proposed would harm the privacy and dignity of the minors needing protection.

Strong recommendation for action is to invest in the training of primary care professionals which are in a privileged position, already in contact with the families and where there is no need to create new channels. Empower them with knowledge and encourage them with institutional support. For organisations working on FGM, more resources should be allocated and programmes and interventions be properly evaluated to avoid re-inventing the wheel, duplication and improve coordination.