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**Re: Information on Canada for Adoption of List of Issues Prior to Reporting at its 72<sup>nd</sup> Session (8 November - 3 December 2021)**

**Introduction**

1. We present the following submission in advance of the 72<sup>nd</sup> session of the Committee Against Torture ('the Committee'), taking place between 8 November - 3 December 2021, for consideration of the List of Issues Prior to Reporting for Canada. Equality Now and the End FGM Canada Network are writing to express our concern about the continued prevalence of Female Genital Mutilation/Cutting (FGM/C) in Canada and the failure of the Canadian government to take concrete and effective action to end FGM/C in Canada and provide support for survivors, which constitute a violation of its obligation under Article 2 (obligation to prevent torture, including through legislative measures) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Convention") to address FGM/C.
2. The Committee's General Comment No. 2 on the Implementation of Article 2 by States parties explicitly recognizes FGM/C as a form of torture and notes that "[s]ince the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission. The Committee has applied this principle to States parties' failure to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation, and trafficking."(CAT/C/GC/2, ¶18).

## Information about the authors of the submission-End FGM Canada/Equality Now

3. Equality Now is an international human rights NGO with ECOSOC status and the mission to achieve legal and systemic change that addresses violence and discrimination against women and girls around the world. Founded in 1992, Equality Now is a global organization with partners and members in every region. Ending sexual violence, ending sex trafficking, ending harmful practices and achieving legal equality are the main areas of Equality Now's work. This submission also references Equality Now's report '*Female Genital Mutilation/Cutting: A Call for a Global Response*' published in 2020, jointly with the End FGM European Network and the U.S. End FGM/C Network.<sup>1</sup>
4. The End FGM Canada Network is a coalition of individuals and civil society organizations that exists for the purpose of promoting, upholding and enforcing the human rights of girls and women residing in Canada, as enshrined in the Canadian Charter of Rights and Freedoms, the United Nations' Universal Declaration of Human Rights, and the Declaration of the Rights of the Child, to be protected from the practice of female genital mutilation or cutting (FGM/C), to end FGM/C in Canada and worldwide, and to support survivors of FGM/C in Canada.

## Female Genital Mutilation/Cutting in Canada

5. FGM/C is a harmful practice that involves the partial or total removal of the female genitalia for non-medical reasons. It is recognised internationally as a violation of the rights of women and girls and an extreme form of violence which infringes on their right to be free from all forms of discrimination, right to life and physical integrity, including freedom from violence and the right to health.
6. There are no official, publicly available estimates of the number of survivors of FGM/C living in Canada, or women and girls at risk of undergoing FGM/C<sup>2</sup>. However, the Canadian Border Services Agency has stated that "it is almost certain" that FGM/C is also happening in Canada.<sup>3</sup> Canada has sizeable populations of diaspora communities from countries where FGM/C is known to be practiced<sup>4</sup>. A 2016 study authored by anti-FGM organization Sahiyo which surveyed 385 women around the world – primarily from the Dawoodi Bohra community – and found that of those women, 18 (5%) lived in

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<sup>1</sup> Equality Now, End FGM European Network, US End FGM/C Network, *Female Genital Mutilation/Cutting: A Call for a Global Response*, 2020. [https://www.equalitynow.org/fgmc\\_a\\_call\\_for\\_a\\_global\\_response\\_report](https://www.equalitynow.org/fgmc_a_call_for_a_global_response_report)

<sup>2</sup> Shivangi Misra, Female genital mutilation in Canada and the limits to criminalization, 11 July 2020, Canadian Dimension.

<https://canadiandimension.com/articles/view/female-genital-mutilation-in-canada-and-the-limits-to-criminalization>

<sup>3</sup> Stewart Bell, Female genital mutilation practitioners are travelling to Canada, border officers warned, 17 July 2017, Global News Canada.

<https://globalnews.ca/news/3602227/female-genital-mutilation-canada-border-officers-warned/>

<sup>4</sup> Dr Catherine Holtmann & Dr Lori Wilkinson, "Dr. Evangelia Tastsoglou, Principal Investigator Dr. Myrna Dawson, Co-Investigator Saint Mary's University University of Guelph" 129.

Canada and had all undergone FGM, and two had had the procedure in Canada itself<sup>5</sup>. Informal analysis by the End FGM Canada Network of Canada's 2016 census data reveals that approximately 100,000 survivors of FGM/C live in Canada and thousands of young girls are at risk. However, this estimate is based on immigrants from countries in Africa and the Middle East which have nationally-representative prevalence data on FGM/C<sup>6</sup>. The practice of FGM is far more widespread globally, with evidence indicating the presence of FGM/C in over 90 countries around the world, in both diaspora communities and local populations with a long standing practice of FGM/C.<sup>7</sup> An analysis of Canada's 2016 census data reveals that Canada's population includes women and girls whose families have migrated from over 50 of these countries where FGM/C has been taking place for generations.

7. There are numerous studies that have surveyed Canadian survivors of FGM/C. A 2017 study by Sahiyo documents two instances of FGM/C where women from the Bohra community had undergone the procedure in Canada.<sup>8</sup> A 2018 study documents interviews with 14 Somali-origin women living in Toronto who had undergone FGM/C.<sup>9</sup> Another 2017 study interviewed seven women living in Canada, all of whom had been cut in their countries of origin (which included Djibouti, Ethiopia, Mali, Guinea, Egypt, etc.), but did not perpetuate FGM/C on their daughters.<sup>10</sup> A study that focused on the health concerns of women living with FGM/C also surveyed 21 women living in Canada (of which 20 had undergone FGM/C who originated from 15 different African countries where FGM/C takes place).<sup>11</sup>
8. In early June 2021, the End FGM Canada Network interviewed three young 25-year-old women, T.O., F.A., and M.M., all born in Canada and Canadian citizens; two testified that they were taken to Egypt and one to Somalia as children and forced to undergo FGM/C. (See Annex for more information) They further testified that they know ten other girls who suffered the same fate. Past news reports also indicate that girls in Canada have been taken to their countries of origin to be cut, despite the fact that such "vacation cutting" is prohibited under Canadian law.<sup>12</sup>

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<sup>5</sup> "The Truth About the Secretive Practice of 'FGM' In Canada", online: *Global Citizen* <https://www.globalcitizen.org/en/content/fgm-in-canada-2/>

<sup>6</sup> Giselle Portenier, *Defying destiny: a story of female genital mutilation*, 11 March 2016, Ottawa Citizen. <https://ottawacitizen.com/news/defying-destiny-story-female-genital-mutilation>

<sup>7</sup> Equality Now, End FGM European Network, US End FGM/C Network, *Female Genital Mutilation/Cutting: A Call for a Global Response*, 2020. [https://www.equalitynow.org/fgmc\\_a\\_call\\_for\\_a\\_global\\_response\\_report](https://www.equalitynow.org/fgmc_a_call_for_a_global_response_report)

<sup>8</sup> Mariya Taher, *Understanding Female Genital Cutting in the Dawoodi Bohra community: An Exploratory Survey*, February 2017. [https://sahiyo.files.wordpress.com/2017/02/sahiyo\\_report\\_final-updatedbymt2.pdf](https://sahiyo.files.wordpress.com/2017/02/sahiyo_report_final-updatedbymt2.pdf)

<sup>9</sup> Danielle Jacobson et. al., *The lived experience of female genital cutting (FGC) in Somali-Canadian women's daily lives*, 13(11) PLoS ONE (2018). <https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0206886&type=printable>

<sup>10</sup> Sophia Koukoui, Ghayda Hassan & Jaswant Guzder, *The mothering experience of women with FGM/C raising 'uncut' daughters, in Ivory Coast and in Canada*, 14 Journal of Reproductive Health 51 (2017). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5382428/>

<sup>11</sup> Uzima Women Relief Group International, *Investigating Experiences and Health Concerns of Female Genital Mutilation among African Women in Toronto*, 2017. <https://www.uzimawomeninternational.org/female-genital-mutilation-cutting#/>

<sup>12</sup> Giselle Portenier, *Defying destiny: a story of female genital mutilation*, 11 March 2016, Ottawa Citizen, <https://ottawacitizen.com/news/defying-destiny-story-female-genital-mutilation>; Jayme Poisson, *Woman shares*

9. The CEDAW Committee in 2016 in its Concluding Observations on the eighth and ninth periodic reports of Canada had expressed concern that information on harmful practices, including FGM/C and ways to combat them is not readily accessible to women in Canada. The CEDAW Committee recommended that the Canadian government “systematically collect disaggregated data on harmful practices in the State party and make information on ways to combat such practices widely available.”<sup>13</sup> We understand that Statistics Canada has partially complied with this recommendation and gathered some data based on Canada’s 2016 census to estimate the number of women and girls living in the country who have undergone FGM/C and/or who are at risk of having FGM/C performed on them. The failure to make public available data on FGM/C, however, is in contravention of the CEDAW committee’s recommendations.
10. The Honourable Prime Minister, Justin Trudeau, issued a statement on the International Day of Zero Tolerance for Female Genital Mutilation, 2021 acknowledging the need for improved data collection stating that, “Here at home, we can help address the issue by improving data collection. We can also offer information and training to health service providers to identify those at risk and to assist survivors through culturally sensitive social support, and health and psychological services.” The mandate to collect the data is with the federal government. Data collected thus far, has not been made public.<sup>14</sup>

### **Legal and Policy Interventions of the Canadian Government relating to FGM /C**

11. In addition to the Convention, Canada is a signatory to the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Social, Economic and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC). These international commitments create both negative and positive duties on the Canadian government to protect, promote and fulfill the rights under the international human rights law. Canadian courts have recognised the importance of Canada upholding its obligations under international treaties to protect rights enshrined therein.<sup>15</sup>
12. The Canadian Constitution includes the Canadian Charter of Rights and Freedoms. Under section 7 of the Charter, everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of

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*traumatic FGM secret and a bond is formed*, 24 September 2017, Toronto Star.

<https://www.thestar.com/news/fgm/2017/09/24/woman-shares-traumatic-fgm-secret-and-a-bond-is-formed.html>

<sup>13</sup> Committee on the Elimination of Discrimination Against Women, Concluding observations on the combined eighth and ninth periodic reports of Canada, CEDAW/C/CAN/CO/8-9, 25 November 2016, paras 22-23.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/402/03/PDF/N1640203.pdf?OpenElement>

<sup>14</sup> “Statement by the Prime Minister on International Day of Zero Tolerance for Female Genital Mutilation”, (6 February 2021), online: *Prime Minist Can.*

<https://pm.gc.ca/en/news/statements/2021/02/06/statement-prime-minister-international-day-zero-tolerance-female-genital>

<sup>15</sup> *Slaight Communications Inc. v. Davidson* [1989] 1 S.C.R. at page 1041

fundamental justice.<sup>16</sup> The rights under the charter apply to Canadian citizens and non-citizens.

13. The Canadian Criminal Code was amended in 1997, to include FGM/C as a form of aggravated assault.<sup>17</sup> Any person conducting FGM/C for non-medical reasons faces up to 14 years of imprisonment. If a person does not commit the act but agrees aids or abets the act of FGM/C, they can be convicted as a party to the offence under section 21(1) of the Criminal Code.
14. Section 273.3 (2) the Canadian Criminal Code prohibits taking a minor outside the country for the intention to conducting, aiding or abetting FGM/C for non-medical purposes and/or causing bodily harm.
15. There has not been a single criminal prosecution or conviction for FGM/C in Canada since the legislation was enacted.
16. Canada was the first country to recognize fear of gender persecution as a ground for claiming refugee status. The Canadian Immigration and Refugee Board has granted refugee status to some women whose children would have been subjected to FGM/C, if she had been forced to return to her country of origin.
17. A Federal Interdepartmental Working Group on FGM which was formed in 1994, compiled a report in 1999 as a part of their “ongoing commitment of Canadians and the Government of Canada to stop this practice in Canada and to improve the health and well-being of affected women and their communities”. The report made recommendations to the stakeholders, health-care providers, government and the communities affected by the practice. It recommended that, “[t]o ensure that the practice of FGM does not occur in Canada, it will be critical to continue to promote and provide ongoing respect for the cultures of affected communities”; and that, “[c]itizenship and Immigration Canada could provide early, effective intervention by developing information packages that are given directly to families upon arrival in Canada”.<sup>18</sup> Almost three decades later, despite the continually increasing levels of immigration from affected countries, the vast majority of these recommendations have not been implemented.
18. The above-mentioned Interdepartmental Working Group held community-wide consultations and based on those consultations expressed that there is a need for a “national database of FGM-related activities” and “resource centres for disseminating information on FGM”. These recommendations have not been implemented.
19. The Canadian government has taken a number of measures to combat FGM/C, including funding small scale-initiatives and research on FGM/C and including an advisory about

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<sup>16</sup> *Canadian Charter of Rights and Freedoms*, s 7, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

<sup>17</sup> Section 268, Criminal Code of Canada

<sup>18</sup> Patricia Huston, “Female Genital Mutilation,” 1999, The Canadian Women’s Health Network, 14 Feb. 2013 <http://www.cwhn.ca/sites/default/files/resources/fgm/fgm-en.pdf>, 10.

the illegal nature of FGM/C in its citizenship guide. However, as highlighted above, the measures taken by the Canadian government far fall short of what is required to end FGM/C within Canada and address the needs of FGM/C survivors living in the country.

20. There is need for acceleration of efforts against FGM/C, including effective enforcement of the laws against FGM/C. The Canadian government needs to take a comprehensive approach towards ending FGM/C, starting with the establishment of national prevalence statistics to inform policies. Further, the government must develop a multi-sectorial cross-country National Action Plan coordinated by a lead ministry which initiates policy development, monitors and further coordinates policy action on FGM/C, and facilitates cross-sectoral initiatives in the fields of education, health, and child protection. Funding is needed for non-governmental and community organizations to support survivors, implement prevention strategies in community organizations, and develop and deliver FGM/C related trainings. The Canadian government should look to European countries and learn from successful initiatives in terms of both protection for girls and support for survivors.<sup>19</sup>

### **Suggested Questions for State Party's List of Issues Prior to Reporting**

21. We respectfully urge the Committee to raise the following requests and raise the following questions with the Canadian government:

- Please provide statistical and other relevant data on the number of women and girls living in Canada who have either undergone FGM/C or are at risk of undergoing FGM/C.
- Please provide statistical and other relevant data on the number of women and girls living in Canada who have either undergone FGM/C or are at risk of undergoing FGM/C.
- What concrete policy and regulatory measures has the government taken to implement the CEDAW committee's 2016 concluding observations?
- What steps has and will the government take to implement the recommendations of the Federal Interdepartmental Working Group Report published in 1999?
- What measures have been taken by the Canadian government to eliminate and address the harmful practice of FGM/C within the country?
- What measures have been taken by the Canadian government to prevent the practice of FGM/C within its borders and anyone leaving the country for the purpose of conducting FGM/C?

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<sup>19</sup> See Klara Hillman, *An end to inaction: Addressing female genital mutilation in Canada*, 2019. <http://summit.sfu.ca/item/19283>

- What measures have been taken by the Canadian government to advocate for the availability of and access to culturally competent support service providers (health interpreters, social workers, etc.) who are knowledgeable about FGM/C to ensure that women and families receive adequate and respectful counselling and support?
- What steps has the government taken to consult the communities most affected or at-risk of FGM/C?
- What efforts has the government made to consult with experts, including legal experts, child protection officials, medical practitioners, midwives, public health officials, education professionals etc. to combat and eliminate the practice of FGM/C in Canada and support survivors?
- Is there any government co-ordination at the federal-provincial-territorial level to prevent, eliminate and create awareness on FGM/C in Canada?
- Are there any steps being taken to facilitate, assist and make accessible the immigration and citizenship process for women and girls who are at-risk or have undergone FGM/C in their country of origin?
- Are there any effective mechanisms in place for the immigration and asylum claims of the family members of at-risk girls?
- What steps has the government taken to conduct an inquiry and create a National Action Plan including a comprehensive data collection plan that will help fill data and knowledge gaps?
- Is there a long-term sustainable strategic plan to provide core and project-specific funding to organisations and culturally-competant service providers that work on eliminating the practice of FGM/C?

## ANNEX - TESTIMONIES OF FGM/C SURVIVORS

“I was born in Toronto, Canada. I was 7 years old when my parents took us to Somalia. We were only supposed to go back for the summer, but that was a lie. My sister, my brother and I stayed there for about three years. Not knowing whether we were ever going to be allowed to return back to Canada, we were left there to stay with our grandma as our parents returned back home.

One morning, my grandma decided to wake my sister and I up for breakfast. But at the time I wasn't hungry, so she took my sister to our second house across the street. Then a couple of minutes later she came back for me. I thought that was very odd because she never pressured me to eat breakfast. After the multiple attempts at guilting me, I agreed and went to the second house not knowing what I was getting myself into.

As I walked in the house the doors were slammed shut. There were a bunch of women there, many of whom I didn't know. I tried to escape to the washroom and locked myself in there for a while. Finally, I caved in as they promised they weren't going to harm me. Of course, that was a lie to get me to come out. The moment I came out, they grabbed me, pinned me down, spread my legs and cut off the tip of my clitoris. I couldn't even believe what was happening to me. After that we were confined to a room, where it took weeks for us to heal. I was in so much pain, I felt so humiliated, and I couldn't understand why my grandma would subject me to such trauma.

Three years later we returned back home to Canada, but me and my sister knew better than to ever speak about the Female Genital Mutilation we endured. Our culture has a way of silencing women who go through this horrendous torture, and we were conditioned to believe that it was simply a part of life as a child of Somali immigrants. It was only recently that I was able to tell my truth of what happened, and I want to encourage other women to do the same. Female genital mutilation is abuse and an oppression against women and I want to use my voice to advocate for this injustice to end.”

- F.A., 25, Toronto

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“In 2001, my parents moved my siblings and I to Egypt and told us the reason was to enrich us with our religion and culture. A big fear my parents had was that we would become westernized and completely abandon our traditions, that's why they thought they had to take us there.

I had FGM (female genital mutilation), Type 1 done on me when I was 9 years old during my stay in Africa. I was totally clueless as to what was going to happen that day and was only told

I'd be going for a doctor visit. There was not much resistance on my end because as a child I never thought twice about anyone harming me in that way let alone it being my parents who carried out this procedure on my behalf.

I remember the taxi ride to the doctors and having to wait for a lengthy period of time to get the procedure done. I went inside the room after waiting and sat on the operating table. The last thing I remember before being put under was the ceiling fan and how I was following my eyes with it. I vaguely remember the journey back home, but after that I was bedridden for a few days. I healed and then didn't speak about it in depth because of shame until now being a 25 year old woman.

I have a Podcast/YouTube channel with my friends called Unfiltered Stoics, we shine light on issues that affect us marginalized people. On one of our [YouTube videos](#) we decided to speak about our experience with FGM and through sharing that we got so many messages supporting us for shedding light on a serious matter. I'm so happy and blessed to be a part of a space that allows me to speak my truth and heal. As a first generation Canadian I look forward to bringing awareness to issues people like me go through, because we all deserve basic human rights."

- T.O., 25, Toronto

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"I was born in Toronto, Canada to Somali immigrant parents. In 2004, at the age of 8, I was taken to Egypt for a vacation on the assumption that'd we'd only be there for the summer, but we were actually moving there. By the Fall of 2006, at the age of 10 years old, I became a victim to FGM (Female Genital Mutilation). It was done to me while I lived in Egypt. The whole purpose of why my parents made us move to that country was what many other Somalis call "culture re-education". I remember the traumatizing events as if it were yesterday. For a very long time I was incapable of coming to terms with what had happened to me. Convinced by my culture that such things were of the norm I was silenced by my community into accepting my trauma.

When I spoke to my mother about what had happened, I was told that I had in fact seen many of my friends getting the procedure done and therefore had asked if I could also get it done. This isn't something I recall but due to my distortive memories of the incident I went on years assuming that story was true. The truth is that even if that were the case, things my mother didn't want to hold herself accountable for was the fact that many young girls in my culture are groomed and conditioned into believing that FGM is how a girl must stay holy. My culture brainwashes you into thinking that the only way people will ever respect you or view you as worthy is if you have this horrendous procedure done on you. Years of grooming and conditioning is why if I ever did, I would ask to have this done so I wouldn't feel excluded. But

as a child, I did not know any better and for the caregivers in my life, it was their job to protect me.

I spent 10 years abroad and finally returned to Canada in 2014. I've struggled with wondering why I was the way I was for many years, and it wasn't until 2019 that I was able to finally come to terms with what had happened to me. As a survivor, it is my job to speak out and raise awareness for all the little girls out there who do not have a voice of their own. We are stronger in numbers, and we can heal as a collective. United we stand, forever and always against Female Genital Mutilation.”

- M.M., 25, Toronto