'Harmful practices' as a form of violence against women and girls

**SUMMARY**

Violence against women and girls is prevalent across the world and in all societies, but the forms it takes vary and change over time. In recent years, a number of forms of violence, some of which had not previously been documented in Europe, have become an increasing concern.

Three specific practices, which have become an issue in some EU countries are 'honour' crimes, early/forced marriage and female genital mutilation (FGM). These manifestations of gender-based violence, which are classified as 'harmful practices' in international human rights instruments, are carried out on women and girls as part of accepted tradition or cultural practice, by families or communities. They have a major impact on victims, causing physical and psychological harm, and limiting their capacity to participate fully in society or develop and reach their full potential.

Although there is growing awareness of the problem on the part of the European Union and individual Member States, legislative and policy responses to FGM and other harmful practices are still reported to be lagging behind those for other forms of violence against women. Further policy challenges are raised by the fact that, as a result of crises and conflict, such practices are also reported to be re-emerging or becoming more acute in some areas of the world. Other forms of harm, which affect women and girls in Europe, may also warrant classification as 'harmful practices'.

*This is an introduction to a series of individual briefings on the issues of 'honour' crimes, forced/early marriage, FGM and emerging forms of harm, looking in detail at action at national and EU levels. An overall analysis of the EU legislative framework and policy initiatives on violence against women is available in the briefing, *Violence against Women in the EU: State of Play.*

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**In this briefing:**

- The problem
- Defining harmful practices
- Data on prevalence in Europe
- EU legislative and policy framework
- Policy challenges in the EU and the Member States
- Main references

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Glossary

Violence against women: all acts of violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

Harmful practices: traditional, re-emerging or emerging practices that are grounded in discrimination based on sex, gender and age, among other things, are prescribed or kept in place by social norms, and have often been justified by invoking socio-cultural and religious customs and values. Overall, harmful practices are often associated with serious forms of violence or are themselves a form of violence against women and children.


The problem

Violence against women and girls occurs across the world and in all societies, but the forms it takes vary in different settings and change over time. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), the first legally binding European instrument in this area, identifies a number of specific forms of violence that must be combated in Europe. They range from domestic violence, sexual harassment and rape to emerging forms of violence such as cyber-harassment and stalking. The Istanbul Convention also refers specifically to a number of manifestations of violence, including crimes of so-called honour, early/forced marriage and female genital mutilation, some not previously documented in Europe but now of increasing concern, primarily as a result of globalisation, diasporas and immigration from areas of the world where they are prevalent. These forms of violence against women and girls are included in other international human rights instruments under the umbrella concept of 'harmful practice'.

Defining harmful practices

Both the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), recognise 'harmful practices' and contain legally binding obligations on their prevention and elimination. However, the initial framework was criticised for focusing too narrowly on a small range of 'traditional' practices in the global south, and thus failing to take account of the potential harm of practices found in developed countries and of any new or emerging practices. The November 2014 Joint general recommendation on harmful practices, adopted by the UN Committees on the Elimination of Discrimination against Women and on the Rights of the Child, reflects a shift towards a broader approach, based on identifying underlying criteria that can be used to distinguish 'harmful practices'.

As defined in this recommendation, what characterises such practices is that they:

- constitute a denial of individual integrity and dignity;
- discriminate against women or children and cause physical, psychological, economic and social harm and/or violence, and limitations on their capacity to participate fully in society or develop and reach their full potential;
- are imposed on women and children by family, community members or society at large, regardless of whether the victim provides or is able to provide full, free and informed consent; and
- are considered or presented as part of accepted cultural practice.
UN human rights experts also stress that these practices are frequently justified by invoking social or religious customs and values, are deeply rooted in attitudes that regard women and girls as inferior to men and boys, and are also often used as a means of 'protecting' the honour of women, children and their families and as a way of controlling women's choices and expressions, in particular their sexuality.

The practices described below, which have become an issue in some EU countries, constitute forms of gender-based violence and child abuse, and are recognised internationally as violations of the human rights of girls and women. They may also violate a person's rights to health (Article 35 of the Charter of Fundamental Rights of the EU), dignity (Article 1), security (Article 6) and physical integrity (Article 3); the right to be free from torture and cruel, inhuman or degrading treatment (Article 4); and the right to life (Article 2) in cases where they result in death.

**Honour crimes**

The term 'honour crime' refers to a wide variety of violent acts against a victim, who is usually, but not always, a woman. Such acts may range from abductions, mutilations, beatings and acid attacks to the most extreme form: killing the victim. What brings this variety of violent acts into the same category is the motivation of the perpetrator: the defence of honour that is perceived to be lost because of the victim's behaviour. This is why the perpetrators usually come from the victim’s family or community.

The rationale for 'honour' crimes is often looked for in beliefs of certain religious communities, especially Muslim, even though these crimes are not limited to just one religion. They have also appeared in Hindu and Sikh communities, as well as among Druze, Christians and Jews. Some experts now associate 'honour' crimes with a particular type of culture, rather than a religion. This culture is patriarchal, with family and its honour and reputation taking precedence over the rights of the individual.

It is also important to emphasise that 'honour' crimes are not necessarily exotic and inherent to foreign cultures. Roman law, for example, allowed a husband to kill his wife if he caught her in adultery, but not vice versa. Some sources also claim that the rationale for 'honour' crimes in Middle Eastern legislation stems from the Napoleonic law introduced during the colonial period.

**Child, early and forced marriage**

Forced marriage has been defined by the UN as any marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure. It can take various forms, including child/early marriage, involving a person aged under 18.

While boys and men can be subjected to early and forced marriage, girls and women are disproportionately vulnerable (including in the EU), and suffer particularly grave consequences. These can be devastating for individuals, contributing to curtailing education and increasing health risks and abuse, including domestic violence, sexual abuse and 'honour' killings.

Forced marriage is not specific to particular ethnic, migrant or religious communities and is long-standing in some European countries. The leading drivers of early/child marriage include gender inequality, often endorsed by socio-cultural traditions and religion, poverty and the value attached to virginity. In communities where there is a high prevalence of early marriage, there may be social pressure to conform. Forced
marriages may also occur in the context of migration, for example to ensure that a girl marries within the family’s community of origin or to provide extended family members or others with documents to live in a particular country. Research conducted in EU Member States reveals an inter-relation between forced marriage and trafficking in human beings. Forced marriages are also used by armed groups during conflict, or may be seen as a means of enabling girls to escape poverty during or after conflict.

**Female genital mutilation (FGM)**

Female genital mutilation (FGM) includes all procedures that intentionally alter or cause injury to the female genital organs for non-medical (i.e. traditional, cultural, religious or non-therapeutic) reasons. It entails the cutting, stitching or removal of part or all of the female external genital organs and can take diverse forms, which have been classified by the WHO into four types, of varying severity. The classification takes on particular importance in connection with asylum claims, as the WHO typology is used as a basis for assessing grounds for asylum in the EU.

FGM is mostly carried out on young girls between infancy and the age of 14, without consent, although it is occasionally also performed on adult and married women. Women may also be reinfibulated following childbirth. The procedure may be performed using rudimentary tools such as razors or blades and without anaesthesia or – increasingly – by trained health professionals. FGM has no health benefits and can have serious effects on health and wellbeing. The immediate consequences can include excessive bleeding, septic shock, infections and even death. In the long term, it can lead to chronic pain, infection of the reproductive system, decreased sexual enjoyment and painful intercourse, as well as increasing the risk of childbirth complications and newborn deaths. In addition to the physical impacts, it can also impact negatively on mental health. Research indicates that medicalisation does not necessarily make the procedure less severe, as it may lead to more extensive cutting and can be more difficult to repair.

A 2013 study by Unicef found that the meanings attached to FGM vary between communities and individuals, and that the rationales for performing and continuing with the practice shift over time. Among girls and women, the most commonly reported benefit of FGM was found to be gaining social acceptance. There is often a social obligation to conform to the practice and a widespread belief that if they do not, they are likely to pay a price that could include social exclusion, criticism, ridicule or stigma. Among boys and men, the reasons for a girl to undergo FGM largely mirror those given by girls and women, with social acceptance and preservation of virginity being the most commonly cited reasons in most countries. Other justifications include health and hygiene, concerns about marriageability and the belief that it is a religious requirement.

**Data on prevalence in Europe**

Collection of reliable, comparable data on the scale of violence against women in the EU in general has been identified as an urgent problem. The information on harmful practices in Europe is still very limited and mostly based on broad estimates rather than exact data. Under-reporting is a significant issue, due to the sensitive or intimate nature of these practices. Victims may fear bringing shame on themselves, their family or the wider community by reporting, and in some instances reporting a crime may trigger acts of harassment or violence. In addition, where instances are reported, figures may not be recorded in official administrative data (i.e. by police, justice, health and social services), particularly where practices are not classified or recorded as specific criminal
offences or where mandatory reporting does not exist or is not followed. Although steps have been taken in recent years, prevalence studies are still lacking at both national and EU-levels.

**Data on 'honour' crimes**

Until the past few decades, the problem of 'honour' crimes was mostly perceived as a problem of countries outside Europe, especially the Middle East and southern Asia. However, migratory flows from these countries into the West have caused the problem to spread into areas where it did not exist before, including EU Member States. The existence of 'honour' crimes in the EU has not been sufficiently acknowledged until recently, which is one reason why the full scale of the problem in the EU is not known.

Another key problem with 'honour' crimes is that they are often kept secret from the authorities. Even when reported, they are often not classified as such. For example, they are often treated as domestic violence because authorities in Europe may not recognise them as a special type of crime. Even 'honour' killings are sometimes not recognised as a special type of crime. There are further problems with their classification as 'honour' killings since they may be made to look like suicides or accidents.

However, there has been significant improvement in the recognition of 'honour' killings in several EU Member States. For example, in the UK, police forces have decided to reopen certain old murder cases on suspicion that they were actually 'honour' killings.

There is evidence of 'honour' crimes occurring in other EU Member States as well. France, Germany, Italy, Belgium and Sweden are the Member States most often mentioned as having a problem with the phenomenon, though the scale of it cannot be stated due to the reasons mentioned above.

**Data for child, early and forced marriages**

The figures for early, child and forced marriages are also scant, as well as the knowledge of circumstances under which these marriages occur in EU Member States. Under-reporting and limitations in the data that are available are also to blame in this case. NGOs or other bodies may collect data on an ad hoc basis, but it is not collected systematically and the fact that few EU Member States criminalise forced marriage contributes to a lack of available crime statistics at national level.

Summarising available prevalence data from Germany, the UK and Switzerland, a recent academic analysis of forced marriage in Europe concluded that although both sexes are affected, more women and girls are confronted with forced marriage than men or boys, and that a considerable amount of cases involve minors. Whilst stressing the limitations of the data, a review for the European Parliament notes that in Croatia, Cyprus, Slovakia, Slovenia and Sweden, a low number of forced marriages was recorded between 2011 and 2015, but there was a comparatively higher prevalence of forced marriage in Austria, Belgium, Bulgaria, Denmark, Germany and the UK.

**Data on FGM**

The World Health Organization (WHO) estimates that, worldwide, some 140 million women and girls are currently living with the consequences of FGM. The UNHCR notes that the practice is most common in the western, eastern, and north-eastern regions of Africa; in some countries in Asia and the Middle East; and among migrant and refugee communities from these areas in Europe, Australia, New Zealand, Canada and the USA. The UNHCR has estimated that around 20 000 women and girls from FGM-practising countries seek asylum in EU Member States every year, including 9 000 potentially...
already mutilated. In its 2012 Resolution on ending female genital mutilation the European Parliament refers to estimates that at least 500 000 women living in the EU have been subjected to female genital mutilation, and that a further 180 000 girls and women are at risk of undergoing FGM, usually during a stay in a country in which the practice is prevalent. FGM is also rumoured to be performed on girls in EU countries, but most cases remain unverified.

Exact figures on FGM in Europe, either for women who have already undergone it, or girls at risk, are not known. One issue is that, at national level, FGM figures are based on estimates and the method of calculating them differs depending on the Member State in which they are calculated (if they are even calculated at all). According to 2013 data from the European Institute for Gender Equality (EIGE), only eight EU Member States11 have prevalence studies, and there are only partial data in some other EU Member States. EIGE also found that by July 2014, only five EU Member States12 had estimated FGM risk for their country. Only Belgium has repeated its risk (and prevalence) estimates over time, using the same methodology, allowing trends to be assessed.

Although official EU-level statistics on the prevalence and risk of FGM are still lacking, there are initiatives at EU level to improve the situation. The University of Ghent has been running a prevalence study funded by the European Commission to develop a common definition and methodology on the prevalence of FGM. The European Institute for Gender Equality (EIGE) has also run two studies. The first, conducted to map FGM in the EU, found that there are victims – or potential victims – in at least 13 EU countries: Austria, Belgium, Denmark, Germany, Spain, Finland, France, Ireland, Italy, the Netherlands, Portugal, Sweden and the UK. The follow-up study, piloting a new method of estimating girls at risk of FGM, in Ireland, Portugal and Italy, found that the risk varies between the Member States according to the total number of first generation migrants originating from countries with high FGM prevalence. The pilot study will be extended to five more countries (Belgium, Cyprus, Greece, Italy and Malta) in 2017.

The EU legislative and policy framework

Gender equality and non-discrimination are mentioned as core values of the European Union in Article 2 of the Treaty on European Union (TEU). The EU Charter of Fundamental Rights reaffirms these values, also protecting people’s right to dignity and physical and mental integrity.

Legislative measures

The EU currently has no specific binding instrument designed to protect victims of harmful practices, or indeed to tackle violence against women in general. However, all EU Member States have signed (but not all have ratified) the Council of Europe’s Istanbul Convention, a powerful, comprehensive international tool to tackle violence against women through various measures, including legislation. The Convention addresses the problem of harmful practices, negating honour as an acceptable justification for violence against women and the validity of forced marriages, as well as advocating making FGM a criminal offence. Commission proposals on national ratification and EU accession to the Istanbul Convention are currently under consideration.

Some existing EU legislative instruments also deal with certain aspects of the problem and are relevant either for all or some harmful practices. For example, the Directive on Victims’ Rights requires that support services be provided to victims of violence, including harmful practices. The Directive on combating trafficking and Directive on the
residence permit issued to third-country nationals who are victims of trafficking is especially relevant for victims of forced and early marriages. The Directive on the right to family reunification is also relevant, because under it, Member States may require the sponsor and his/her spouse to be of a minimum age, before the spouse is able to join him/her. The Asylum Reception Conditions Directive specifically mentions victims of FGM amongst vulnerable persons who should receive appropriate healthcare during their asylum procedure, and the recast Qualification Directive includes FGM as grounds to be taken into account when granting asylum.

Policy measures
Tackling violence against women is an issue that the EU tries to deal with in both its internal and external policies. The Strategy for equality between women and men (2010-2015) gave importance to tackling violence against women, harmful practices included, and this commitment is continued in the Strategic Engagement for Gender Equality for 2016-2019, which has made combating gender-based violence one of its priorities, with special mention of harmful practices.

In external policies, the EU has been vocal on the importance of women’s rights and the protection of women against all forms of violence. The Programme on Global Public Goods and Challenges 2014-2020 has made combating harmful practices a priority under the protection of women’s and girls' rights. Initiatives on combating child marriage, FGM and gender-biased sex selection (son preference) were included in the annual action programme for 2015.

Some harmful practices have received individual attention in EU policy documents. This applies in particular to FGM. In 2013 the Commission adopted a communication Towards the elimination of female genital mutilation, which aims to ensure that action to combat FGM is mainstreamed across the fields of justice, police, health, social services, child protection, education, immigration and asylum and external action.

In addition, the EU and its Member States are committed to working towards the United Nations Sustainable Development Goals (SDGs), which include a gender equality goal, with targets aimed at ending violence and discrimination against women and girls. These include a specific target on eliminating female genital mutilation (FGM), and child, early and forced marriage (CEFM).

EU funding for combating harmful practices
Since its launch in 1997, the European Commission's Daphne programme to combat violence against children, young people and women, has funded a number of projects aimed at increasing understanding of the nature and scope of harmful practices in Europe. The current programming period has included a call for transnational projects to raise awareness of these practices in affected communities and develop guidelines for frontline health, law enforcement and education staff who have direct contact with victims. The total funding available for the selected projects, which address FGM, early/forced marriage and ‘honour’ crimes, was €4.5 million.

In the context of EU development policy, the Global Public Goods and Challenges programme for 2015-2020 gives special attention to harmful practices, and earmarked €100 million to promote women’s and children’s wellbeing.

Policy challenges for the EU and the Member States
Expert recommendations for eradicating harmful practices include enacting carefully considered legislation which recognises them as a form of discrimination and violence against women, condemns, prohibits, and penalises them, and requires governments to
collect data on prevalence. It is also stressed that legislating against these practices is not enough. In order to bring about positive change, it is vital to make this part of a comprehensive national response, which also focuses on prevention, and above all on identifying and providing support to girls and women who are affected or at risk.

One of the challenges facing EU Member States is that some of these harmful practices are unfamiliar and responses to them have so far been patchy. Analysis from the Council of Europe shows that, although there is growing awareness across Europe, countries' legislative and policy responses to FGM and other harmful practices are still lagging far behind those for other forms of violence against women. In 2014, only 17 Council of Europe countries saw FGM as an issue that they needed to address, although the number had increased since 2010. There was also growing recognition of the need to tackle forced marriage and 'honour' crimes, but attention to the latter remained particularly low. By 2014, less than half of the reporting countries had a national policy on female genital mutilation, forced marriages, or 'honour' killings.

Since parties to the Istanbul Convention are required to meet minimum standards in data collection, prevention, protection of victims and prosecution, ratification by all EU Member States and accession by the EU could be the focus and impetus for improvements and common standards.

There are already examples of more comprehensive approaches. Austria’s 2016 report on implementation of the Istanbul Convention notes that a new category of offence for forced marriage came into effect in January, punishable by a prison sentence of between six months and five years. Besides legislation, the government funds a shelter in Vienna for girls and women aged 16-24 from all over the country, who have been exposed to or threatened with forced marriage, which provides counselling for victims, but also offers awareness-raising for front-line staff and collects statistical data. In the UK, the government set up a forced marriage unit in 2005 to act as a focal point to offer advice and support to victims (at home and abroad), provide information to professionals and local authorities, and collect and publish statistical data. Following the introduction of protection orders, legislation was enacted in 2014 to make forced marriage a criminal offence, with a sentence of up to seven years in prison. As a result of the failure to respond effectively to FGM, the government has set up a similar FGM unit to help address the paucity of data and ensure prosecutions. The 2016-2020 Strategy for Ending Violence against Women and Girls includes measures to tackle harmful practices domestically and in development work overseas. In Sweden, the rate of reporting of 'honour' crimes is low, and officials dealing with victims are often not sufficiently trained to recognise risk factors when victims ask them for help before the problem escalates. The Swedish Patriarch checklist, for the assessment of risk for patriarchal violence with honour as motive, is an attempt to tackle the issue of low reporting, and experiences with using it have been reported as positive. It includes traditional risk factors for targeted violence, and factors specifically related to 'honour'-based violence (such as previous 'honour'-based violence, attitudes that support 'honour'-based violence, origin from an area with known sub-cultural values, and lack of cultural integration).

As reported by the UN, another challenge facing the EU and the Member States is that harmful practices are now re-emerging or becoming more acute in some areas of the world, particularly as a result of conflict. Research conducted by the International Organization for Migration in 2015 illustrates how, during armed conflict, natural
disaster and protracted crisis, many families are adopting ‘negative coping mechanisms’, including forced early marriages, which then expose girls and women to further risks of violence, such as domestic abuse and trafficking. In this context, the EU and its Member States also face a number of challenges relating to gender-sensitive protection of women and girls seeking asylum, and addressing gender-based violence in external policy.

The UN Committees on the Elimination of Discrimination against Women (CEDAW) and on the Rights of the Child (CRC) have also noted that emerging harmful practices related to social norms about the body are being brought to their attention. These issues, which include women and girls surgically altering their bodies and resorting to weight-loss regimes that may damage their health, may require responses in the EU.

The European Parliament has played a particularly important role in raising awareness, and pushing for firm action on violence against women in general and harmful practices in particular. In its 2006 Resolution on the Current Situation in Combating Violence against Women and Any Future Action and Resolution of 26 November 2009 on the elimination of violence against women it acknowledges that the types of violence perpetrated against women vary in different cultures and traditions, and that forms of harmful practices such as female genital mutilation, crimes of 'honour' and forced marriages are a reality in the EU. Parliament has also urged the Member States to take appropriate measures in their respective national laws, in particular, not to accept any reference to cultural practice as an extenuating circumstance in cases of violence against women, crimes of 'honour' and genital mutilation and to ensure victims' right to safe access to justice and effective enforcement. The European Parliament has adopted four resolutions on FGM, in 2001, 2009, 2012 and 2014, calling on the Commission and Member States to provide legal and other means required to raise awareness, protect and support victims and ensure that offenders are prosecuted. In the Resolution of 9 June 2015 on the EU Strategy for Equality between women and men post-2015, Parliament calls on the Commission to support the Member States in preventing violence in its many forms and addressing its root causes and, in particular to follow up its initiatives on FGM, and consider EU accession to the Istanbul Convention. In 2016 Parliament also urged Member States to recognise gender-based violence, including FGM, as a form of persecution and thus accord the relevant protection to women and girls seeking asylum.

Main references


Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change, Unicef, 2013


Endnotes

1 Harmful practices are referred to in the Convention on the Rights of the Child (CRC) (Article 24(3), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), Articles 2, 5 and 16, and regional
Instruments. The Beijing Platform for Action recognised the role of culture and tradition in justifying and perpetuating harmful practices that constitute rights violations and violence. States agreed to “refrain from invoking any custom, tradition or religious consideration with respect to its elimination as set out in the Declaration on the Elimination of Violence against Women”.

2 An account is given in Chapter 5 of Interrogating Harmful Cultural Practices: Gender, Culture and Coercion, Dr Tamsin Bradley and Dr Chia Longman, eds. pp. 81-84

3 Aside from the harmful practices already mentioned, other examples are sex-selective abortion and female infanticide, virginity testing, dowry and bride price, marriage by abduction, corrective rape, acid violence, and cosmetic mutilation.

4 Further analysis is available in the EPRS briefing, Combating ‘honour’ crimes in the EU, Martina Prpic, 2015

5 ‘Honour’: Crimes, Paradigms, and Violence against Women, Lynn Welchman and Sara Hossain eds., p. 4.


8 When the practice first came to international attention, it was generally referred to as ‘female circumcision’. However, to avoid confusion with male circumcision, highlight the harmful effects on girls and women and emphasise that it is a form of violence against women and girls and violation of their rights, the term ‘female genital mutilation’ (FGM) has since become current, particularly at international level. The term ‘female genital cutting’ is also sometimes employed as a more neutral expression, especially in work with practising communities and to avoid stigmatising the girls and women affected. The practice is also known by a number of traditional and local terms.

9 Austria, Belgium, Bulgaria, Croatia, Cyprus, Germany, Luxembourg, Malta, Portugal, Slovenia, Spain, Sweden and the UK


11 Belgium, Germany, Ireland, France, Italy, Hungary, Netherlands, and the United Kingdom.

12 Belgium, Germany, Italy, the Netherlands and the UK.

13 Analytical study of the results of the fourth round of monitoring the implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe member states, November 2014.

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