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Law

## UK is failing to meet international obligations on FGM

Kirsty Brimelow and Zimran Samuel

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### The BHRC says the Government is failing to protect victims and Britain is in breach of its obligations under international law

The Bar Human Rights Committee (BHRC), the international human rights arm of the Bar Council, has called on the UK Government to introduce measures to address the practice of female genital mutilation (FGM).

In submissions to the Home Affairs Committee inquiry into FGM, the BHRC contests that the Government is failing to protect victims and the UK is in breach of its obligations under international law.

The issue of FGM has received both national and international focus in recent times. That FGM is an unacceptable dangerous practice, deserving strong state-level condemnation is largely uncontroversial. The question of what measures the government now needs to take is less straightforward.

The current law criminalising FGM has been in place for almost 30 years but has proved to be ineffective in protecting girls; there is yet to be a single prosecution.

The law itself is inadequate. There remain around 65,000 young girls currently at risk of mutilation in the UK. While the Crown Prosecution Service has publicised that it is actively considering prosecutions, securing a conviction is not enough to meet the UK's obligations under international law. Several international treaties and UN resolutions require the government to be far more proactive in stopping the practice of FGM.

A resolution of the European Parliament has also called on member states to allocate appropriate resources to protect those at risk of being cut and to develop a full range of protective measures, including mechanisms to co-ordinate, monitor, and evaluate law enforcement.

Presently the UK lacks sufficiently tailored or targeted legal powers to assist in intervening in cases where FGM is suspected. The State's response would be strengthened by having a series of powers whereby the authorities could intervene in families in which FGM is a discreet issue, without necessarily recouring to care proceedings.

The BHRC submissions urge the Government to consider the introduction of civil orders to protect vulnerable girls. The criminal justice system is a crude instrument when deployed in cases of such sensitive complexity.

Civil protection would offer more flexibility and would allow victims to seek protection without feeling that those closest to them may face the full force of the criminal law if they do so. The court would have the power to make findings of fact against anyone who is suspected of planning to cut a girl; crucially the court could make a protective order without the necessity for findings.

Similar orders in the context of forced marriages were introduced through the Forced Marriage (Civil Protection) Act 2007. Forced marriage is another serious issue that had grown and been sustained in the shadows; girls did not wish to complain. However, the 2007 Act has been successful in helping victims and protecting potential victims across the country.

While other measures may be used to protect girls at risk of FGM, such as wardship proceedings in the High Court, civil orders would have several important advantages.

Specifically designed protection orders could be drafted in terms that are more easily understood by victims and applicable in county courts across the country. Like orders under the Forced Marriage Act, potential victims and relatives could apply for protective orders, as could bodies such the NSPCC, the police and local authorities.

Ultimately it would be the decision of the complainant as to how far to take matters; whether she wishes to go to a safe-house or return to her family. A victim-centered approach was at the heart of the parliamentary discussions that led to the Forced

Marriage Act 2007; similar considerations should be applied to the current debate.

It is also imperative that the Government closes a loophole, which allows children in the UK, without secure immigration status, to be taken overseas and mutilated. The UK's international human rights obligations apply to all children within its jurisdiction. Any person in the UK who is facilitating the removal of children for FGM should be guilty of a criminal offence. This gap in the law is indefensible and fails to reflect the highly mobile nature of the affected communities.

The BHRC has urged Home Affairs Committee to take a more co-ordinated approach to FGM. A central unit is required to offer assistance to victims in this country and to those who have undergone FGM abroad.

The BHRC recommendations further include the introduction of FGM education into the National Curriculum and training for frontline child protection experts, as well as schoolteachers. There is an obvious pressing need to create sensitive, properly resourced community engagement projects to change attitudes about FGM.

The UK remains in breach of its obligations under international law. Thousands of British girls and young women have been unnecessarily mutilated and have suffered irreparable physical and emotional damage. Many could and should have been saved. Looking the other way is no longer an option.

*Kirsty Brimelow, QC, chairwoman of the Bar Human Rights Committee, and Zimran Samuel, Bar Human Rights Committee*

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