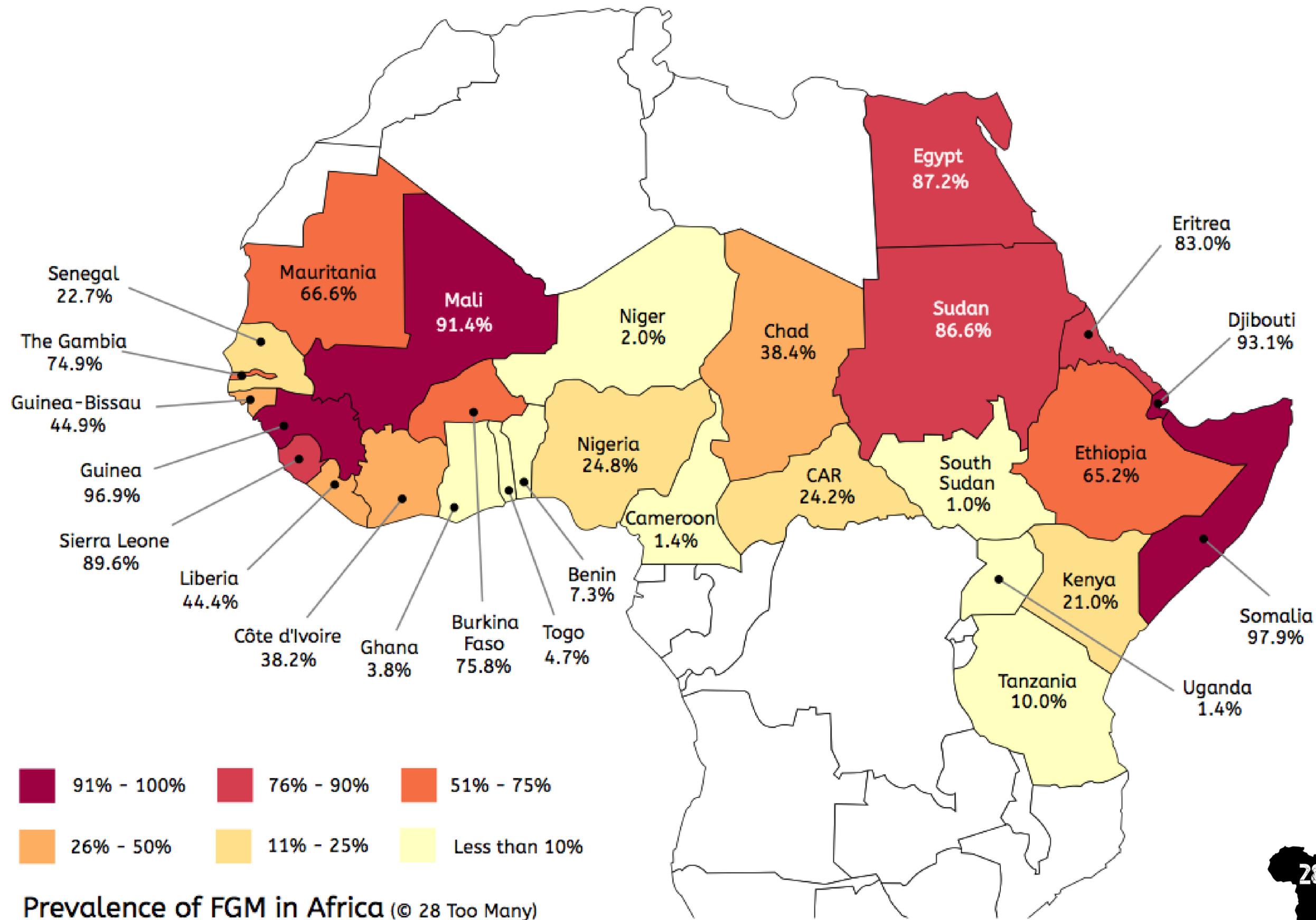




The Law and FGM



55 million girls under the age of 15
have had or are at risk of FGM
across 28 African countries

This study shows that, of these 28 countries:

- **22** have national legislation criminalising FGM
- **6** are currently without laws, meaning FGM is effectively still legal*

*Sudan passed a law in summer of 2020 but with COVID, activists have said it will be hard to implement (Guardian 12 July 2020)



**50% live in three countries
(Egypt, Ethiopia & Nigeria)**

**30% live in the 6 countries without current anti-FGM laws
(Chad, Liberia, Mali, Sierra Leone, Somalia and Sudan)**

The 6 countries that do not have a law against FGM in place*:

- have either draft legislation waiting to be passed, or
- have expressed an intention to pass a law to ban FGM.

*
exception is Somalia



International and Regional Treaties



27 out of the 28 countries have signed, or signed and ratified, one or more of the treaties that recommend they legislate against FGM – CEDAW, the Maputo Protocol and CDEFGM.*

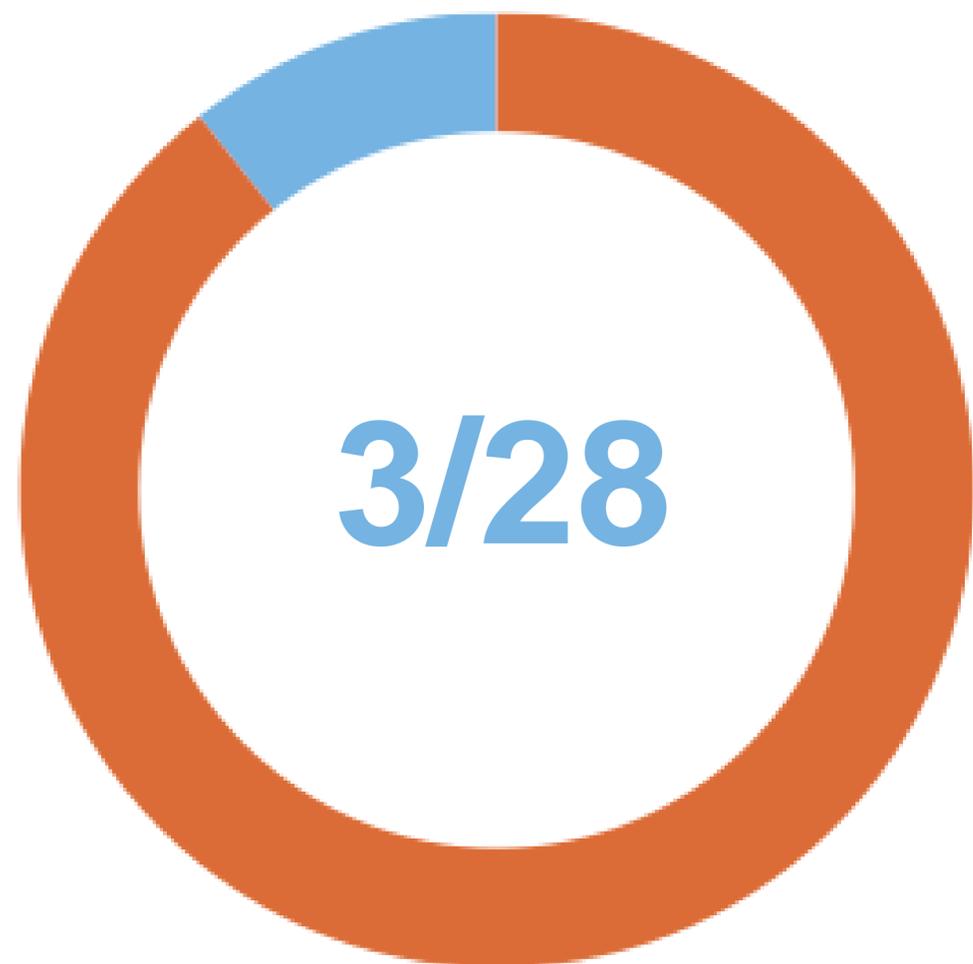
* Exception is Somalia

Constitutions

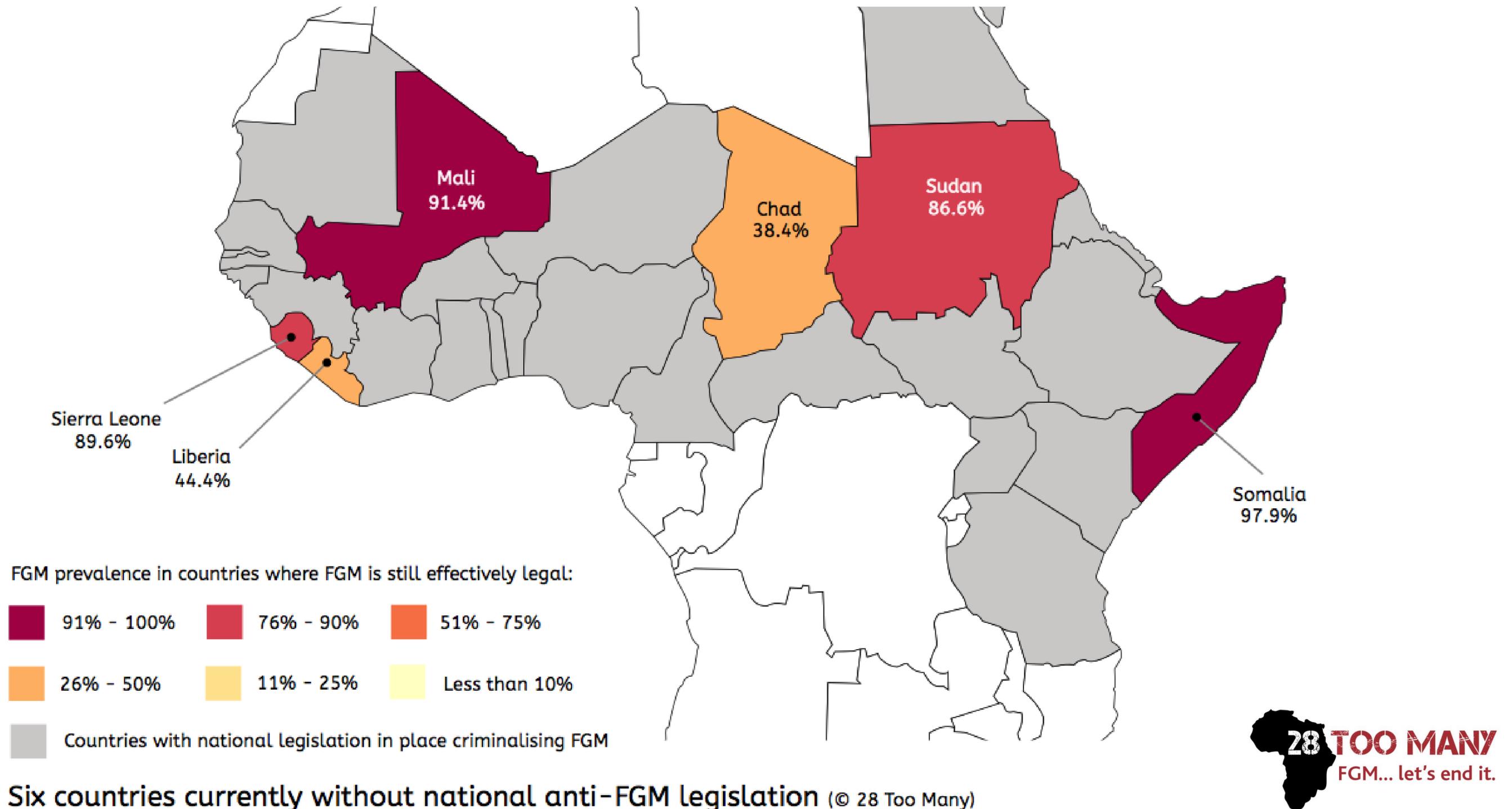
Of the 28 countries in this study, only three constitutions explicitly prohibit FGM:

Côte d'Ivoire, Senegal and Somalia.

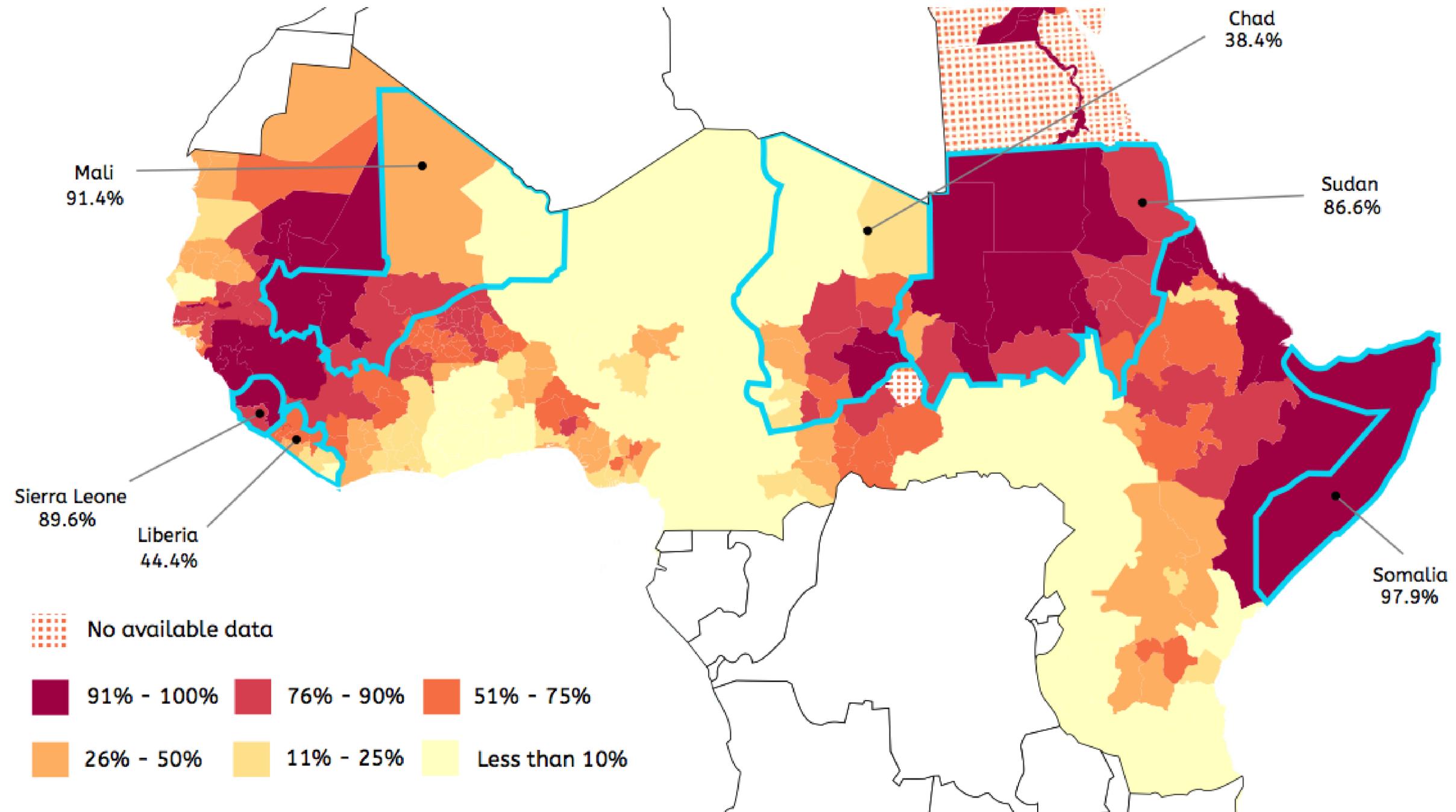
Somalia's constitution bans FGM, but it has no national anti-FGM law in place.



Domestic Legal Frameworks



Cross-border FGM



Cross-border risk: FGM prevalence (%) in and bordering the six countries currently without national anti-FGM legislation

© 28 Too Many



Features of a Best Practice Law

- provides a **clear definition** of FGM;
- criminalises the **performance** of FGM;
- criminalises the **procurement**, arranging and/or assisting in acts of FGM;
- criminalises the **failure to report** incidents of FGM;
- criminalises the participation of **medical professionals** in acts of FGM; and
- criminalises the practice of **cross-border** FGM.

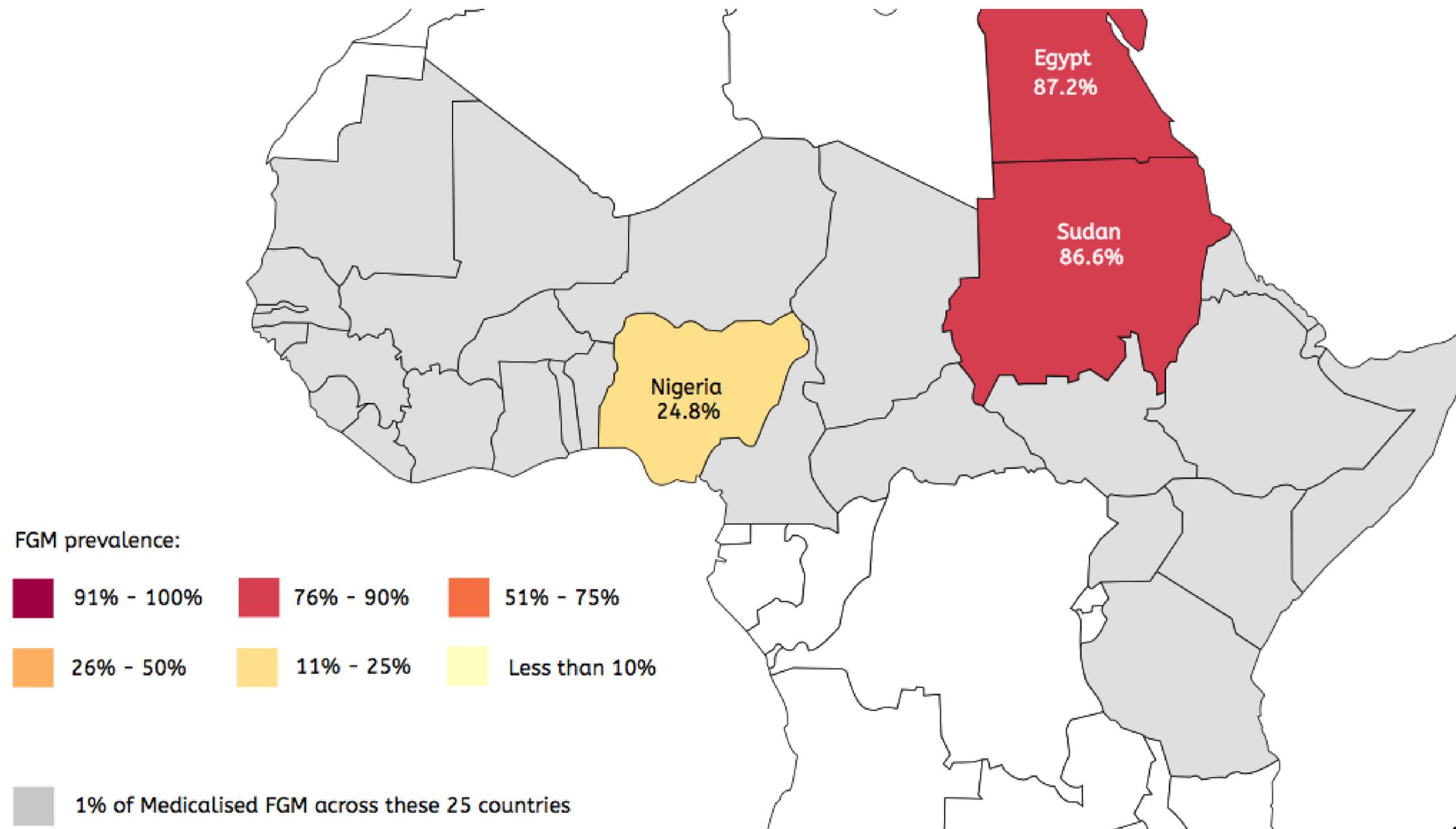
Only 2 countries fulfil this criteria - Kenya & Uganda

Penalties

Fines range from **\$5.50** to **\$3,600**

Prison terms range from **two months** to **20 years**

Medicalised FGM



FGM prevalence in the three countries which account for 99% of medicalised FGM

(© 28 Too Many)

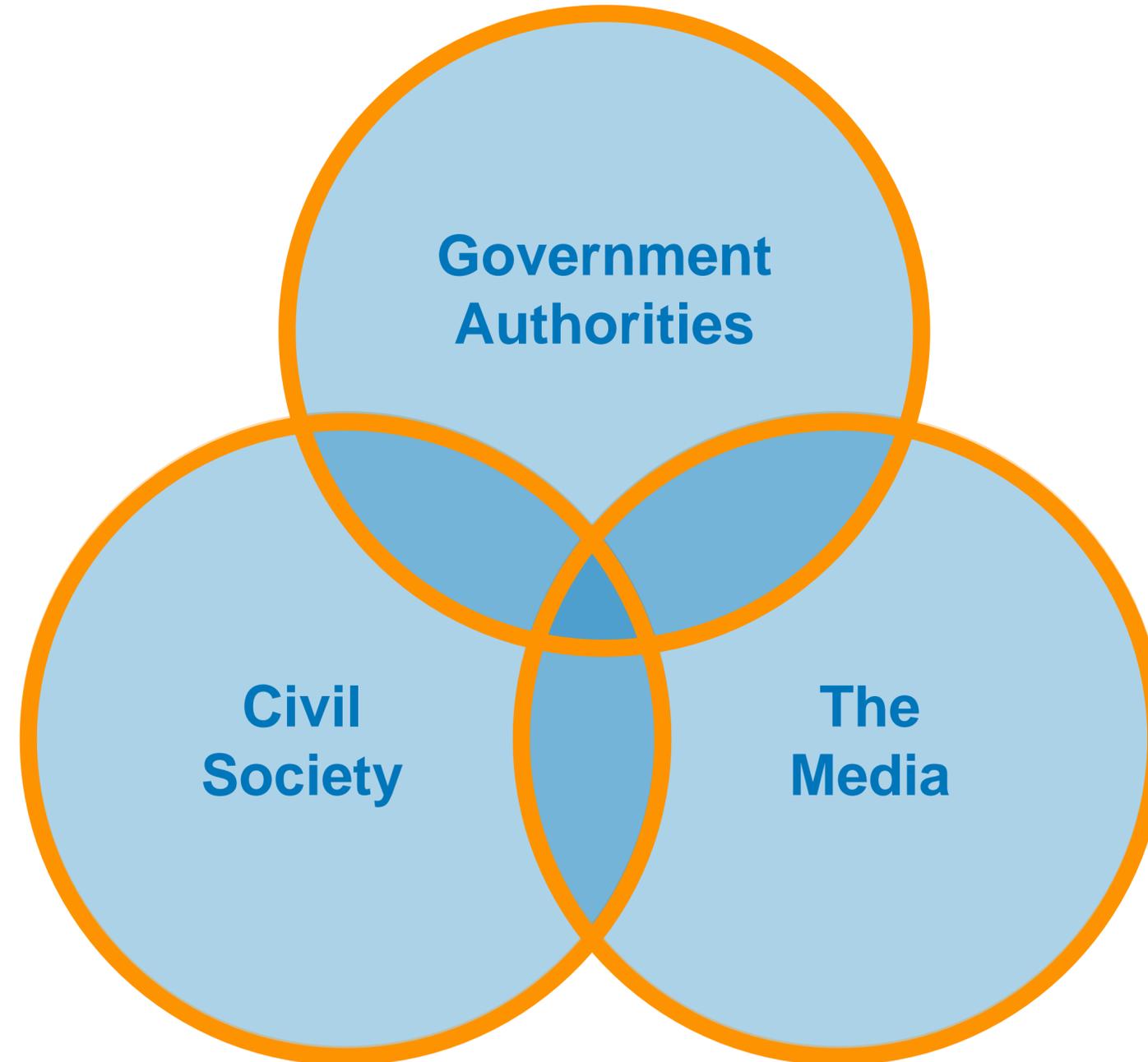
Implementation of the Law

Anti-FGM laws are important because they are a statement of intent and they demonstrate a commitment to eradicate FGM.

The primary purpose of a national law should not be to prosecute; ultimately it is a tool for the
PREVENTION OF FGM.



Implementation of the Law



WORKING TOGETHER TO ACHIEVE SUCCESSFUL IMPLEMENTATION OF ANTI-FGM LAWS

- **Government Authorities** – responsibility for National Action Plans, steering committees, the police and judiciary.
- **Civil Society** – An anti-FGM law is a critical point of reference for all community activists – it shows that FGM is unacceptable and illegal.
- **Media** – to be effective, anti-FGM laws need to be more widely known and understood.



What is all this telling us?

In most countries with anti-FGM laws, the legislation is failing to protect women and girls from FGM.

Laws are rarely enforced and there is an absence of prosecutions.



Features of a Best Practice Law

Now incorporated into a model law

- provides a **clear definition** of FGM;
- criminalises the **performance** of FGM;
- criminalises the **procurement**, arranging and/or assisting in acts of FGM;
- criminalises the **failure to report** incidents of FGM;
- criminalises the participation of **medical professionals** in acts of FGM; and
- criminalises the practice of **cross-border** FGM.

UK Law on FGM – does UK law meet the Model Law standards?

FGM was first criminalised in 1985, then strengthened by the Female Genital Mutilation Act 2003, which makes it:

- illegal to practise FGM in the UK; (performance)**
- to take girls who are British nationals or habitual residents of the UK abroad for FGM (irrespective of whether it is lawful in that country or not) and/or to aid, abet, counsel or procure the carrying out of FGM abroad. (prevents cross-border)**

These offences can result in prison sentences of up to 14 years.

Under section 1 of the 2003 Act, a person is guilty of an FGM offence if they excise, infibulate or otherwise mutilate the whole or any part of a girl's or woman's labia majora, labia minora or clitoris. (definition)

It is an offence for any person (regardless of their nationality or residence status) to:

- perform FGM (any person includes health professionals)**
- assist a girl to carry out FGM on herself (prevent under duress)**
- assist a non-UK person to carry out FGM outside the UK on a UK national or UK resident (cross border)**

If the mutilation takes place in England or Wales, the nationality or residence status of the victim is irrelevant (includes visitors to the UK, ie someone being brought in to carry out FGM)

Under the 2015 Serious Crimes Act it is also an offence to:

- . aid, abet, counsel or procure a person to commit an FGM offence (assist or procure)**
- . encourage or assist a person to commit an FGM offence**
- . attempt to commit an FGM offence**
- . conspire to commit an FGM offence**

Any person found guilty of such an offence faces the same maximum penalty for these offences under the 2003 Act, ie up to 14 years imprisonment.

The government introduced FGM Protection Orders in 2015 under the Serious Crime Act

Over 400 orders have been made since their introduction in 2015 up to 2019

POs are not intended to be punitive unless an order is breached. The intention is to protect girls/women at risk.

There has only been one conviction for FGM which was in 2019.

FGM and POs can result in care proceedings.

FGM Protection Orders protect girls under 18 years but also vulnerable female adults over 18 years.

The types of Order the court might make are:

- **To protect a victim or potential victim from FGM from being taken abroad;**
- **To order the surrender of passports or any other travel documents, including the passport/travel documentation of the girl to be protected;**
- **To prohibit specified persons from entering into any arrangements in the UK or abroad for FGM to be performed on the person to be protected;**
- **To include terms in the order which relate to the conduct of the respondent(s) both inside and outside of England and Wales;**

Breach of an order is a criminal offence, and the person may be arrested if the police believe there is reasonable cause to suspect there is a breach of the order. The offence of breach of an FGM Protection Order is subject to a maximum penalty of 5 years imprisonment.

(extracted from Home Office FGM Resource Pack, 2020)

It is also an offence to fail to protect a girl from FGM or to report an incident of FGM including whether it is to be committed outside of the UK (by a person who is a UK national or a UK resident. The extra-territorial offences of FGM are intended to cover taking a girl abroad to be subjected to FGM.)

Mandatory reporting of FGM was introduced in October 2015. It places a mandatory duty on health and social care professionals and teachers to notify the police if they discover that FGM has been carried out on a girl under 18 years of age during the course of their work



#NOFGM

International End FGM Day: 6 February



<https://www.28toomany.org/thematic/law-and-fgm/>

© 28 Too Many 2020
Registered Charity No. 1150379
Limited Company No. 08122211

Email: info@28toomany.org