
THE CUTTING PRACTICE: A TRADITION ROOTED IN OPPRESSION

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ABSTRACT

Female Genital Mutilation or Cutting (FGM/C) is the practice of removing the entire or part of the female sexual organ- clitoris, for non-medical purposes. This practice is a social construct developed to suppress women. The numbers are as high as 200 million living women who have been cut in Africa, the Middle East, and Asia. It is a violation of human rights- girls as young as infants and in the age group of below 15 are to date, part of this prevalent evil. Girls who have been cut feel like they have achieved a place in their community and stop seeing any reason to attend school. This practice is mostly carried out by local traditional circumcisers, who do not use any medical equipment and often do it with blades or razors. Due to the unhygienic environment, there are several health issues – physically, sexually, emotionally, and mentally. The practice in itself causes most of them. It has no religious background and reflects a deep-rooted mindset that the only purpose of women is to be married to a man and breed his children. One of the main reasons for the cutting practice is that women are believed to commit infidelity or the “fear” that they would attain some form of sexual pleasure outside of marriage by themselves. This practice is often compared to male circumcision which is a wrongful comparison. The research scans the origins of the practice, discusses the health effects, efforts made to stop the evil of FGM, and the legal standing. The paper places a firm emphasis on the need for greater involvement of governmental and non-governmental structures in creating a change towards the elimination of this inhumane practice through education. Lastly, it explores the importance of intervention of human rights associations and legislations in bringing awareness on sexual and women rights being quintessential human rights.

Keywords: *Female Genital Mutilation, The Cutting Practice, Africa, Human Rights, Women’s Right*

INTRODUCTION

*Birth, old age,
Sickness, and death:
From the beginning,
This is the way
Things have always been.
Any thought
Of release from this life
Will wrap you only more tightly
In its snares.
The sleeping person
Looks for a Buddha,
The troubled person
Turns toward meditation.
But the one who knows
That there's nothing to seek
Knows too that there's nothing to say.
She keeps her mouth closed.*

- Ly Ngoc Kieu, Vietnam, 1041-1113¹

“Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. . . . Such are the places where every man, woman, and child seeks equal justice, equal opportunity, and equal dignity, without discrimination.”

-Eleanor Roosevelt, U.S.A., 1958²

¹ Women in Praise of Sacred, Poet Hound (Jul. 20, 2022, 5.19 PM)
<https://poethound.blogspot.com/2011/01/women-in-praise-of-sacred.html?m=1>.

² Where Do Human Rights Begin?, Facing History & Ourselves (Jul. 25, 2022, 8.29 AM)
<https://www.facinghistory.org/universal-declaration-human-rights/where-do-human-rights-begin>.

Patricia Kabbah was a lawyer who served as the First Lady from 1996-1998, in the country of Sierra Leone in Western Africa. She is considered one of the most influential First Ladies in the history of Sierra Leone. When her husband, President Ahmad Tejan Kabbah was a presidential candidate for the country, she made the headlines for sponsoring the circumcision of 1,500 young girls to win votes for her husband. An article in *The New Humanitarian* covers how she had great influence over the people of Sierra Leone and exactly how much she contributed to the continuation of the Female Genital Cutting practice. On the other hand, Olayinka Koso-Thomas, a gynecologist in Sierra Leone is campaigning against the same practice. She hails from Nigeria and does not believe there is anything wrong with the “secret societies” that apart from carrying out the practice also teach women many skills necessary for daily and social life. But that opinion aside, she and a handful of Women’s Rights campaigners want the circumcision ritual replaced by something less brutal and hazardous³.

Female Genital Mutilation is a deep-rooted culture that has been practiced for over 2,000 years and in the face of grave truth and reality, it might take at least that many years for it to be eliminated. But despite the gravity of the situation, the world isn’t without hope, and it's women with that. The adoption by consensus of the United Nations General Assembly resolution “*Intensifying global efforts for the elimination of female genital mutilations*” in December 2012 is a testimony to the increased commitment by all countries to end this harmful practice⁴.

HISTORY AND BACKGROUND OF FEMALE GENITAL MUTILATION

While the origins and timeline of Female Genital Mutilation are not well known, it can be dated back to at least 2,000 years. It is said that it was practiced in ancient Egypt as a sign of distinction between the common people and the aristocrats. Some believe that it started with the slave trade when black slave women entered ancient Arab societies. Some, contrary to the others believe it emerged in the sub-Saharan ethnic groups as part of the puberty ritual. Though none of the accounts can verify how, where, or when the practice started, all account for the

³ Female circumcision is a vote winner, *The New Humanitarian* (Jul. 25, 2022, 1.02 PM) <https://www.thenewhumanitarian.org/report/53323/sierra-leone-female-circumcision-vote-winner>.

⁴ Priyanka Pruthi, Child protection from violence exploitation and abuse, UNICEF (Jul. 26, 2022, 1.09 PM) http://www.unicef.org/protection/57929_69881.html.

description of the practice as a ritual to ensure a woman's virginity and reduced female desire⁵.

The practice is not simply meant to suppress women from engaging in infidelity or the "fear" that they would attain some form of sexual pleasure outside of marriage for themselves. It goes beyond rational thinking and encourages women to volunteer to get cut as they would then become part of the "special secret society" without which they are abandoned and alienated. The fear of being ostracized and kept away from their parents and immediate known friends and family leads to a burdening silence on the issue.

Some of the major causes for the practice to have taken stem and cultivated within several groups of people are discussed as follows⁶:

1. Custom and Tradition

Many communities have adopted circumcision as a rite of passage from childhood to adulthood, during which time the girl is trained and equipped in skills for handling marriage, husband, and childbirth. This custom of "becoming a woman" links all the females in the community who come together to support and teach other girls. In the word of Isha Daramy, a midwife from Sierra Leone, "it is a traditional issue- you cannot just get it out."

2. Woman's Sexuality

The need to control a woman's sexuality is the fundamental reason for the practice spreading like wildfire. Because the sexuality of a person is a social construct, it takes different meanings when viewed in a different light. The family's or clan's honor is dependent on a girl's virginity in countries like Egypt, Sudan, and Somalia where the practice is used to ensure there is no chance of premarital sex and loss of virginity. But for countries that are not as concerned with the "purity" of a woman, like Kenya and Uganda, it is a practice employed to reduce the sexual demand of a wife on her husband thus enabling him to keep several wives. Nevertheless, the idea is still to curtail the sexual desires of the female thereby promoting female virginity and protecting marital fidelity.

⁵Historical & Cultural, FGM National Clinical Group (Jul. 26, 2.56 PM)
http://www.fgmnationalgroup.org/historical_and_cultural.htm#:~:text=The%20history%20of%20FGM%20is,of%20distinction%20amongst%20the%20aristocracy.

⁶ Anika Rahman & Nahid Toubia in association with CRLP & RAINBO London, *Female Genital Mutilation: A guide to laws and policies worldwide* 5-6 (Zed Books 2000).

3. Religion

It is essential to note that FGM/C is a cultural and not a religious practice. It predates the arrival of Christianity and Islam in Africa and is not practiced as a requirement by either religion. Every woman regardless of her religion partakes in the ritual. However, it is important to note that though there are not many known Islamic countries that practice FGM/C, it is strongly identified with the religion in several African countries with many members of the Islam community advocating for it. This stems from the various interpretations made from the “hadith”, the collections of sayings of the Prophet Mohammed.

4. Social Pressure

In a community where most women are circumcised and are part of the “secret society” earning them an esteemed place in the community, not many would be dissuaded from not practicing FGM/C. Human beings are social creations and need to have a social life, conforming to the norms of the same to survive. Circumcision goes from being a perceived need to a persuasive practice that is necessary for acceptance. The fear of being ostracized and outcast by one’s society can be a very motivating factor to conform to the general standard practice.

TYPES OF FEMALE GENITAL MUTILATION/ CUTTING

The United Nation in its report on female genital mutilation gives as such:

“The term ‘female genital mutilation was first adopted in 1990 by the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children, and in 1991 the World Health Organization (WHO) recommended the same to the United Nations as well. However, objections have been raised because the term also confers judgment and condemnation of what is an age-old practice in many countries and their communities. To become more culturally sensitive, the term ‘female genital cutting, or FGC, has become widely used among researchers as well as various international development agencies. The UNICEF and the United Nations Population Fund (UNFPA) currently use a hybrid terminology, ‘female genital mutilation/cutting or FGM/C. This is meant to capture the significance of the term ‘mutilation’ at the policy level and highlight that the practice is a violation of the rights of girls and women - At the same time, it recognizes the importance of employing respectful terminology when working with practicing communities.”

Though there are broad umbrella terms for the practice, the precise anatomical descriptions were provided by the typology developed by WHO in 1995⁷.

- Type I is the partial or total removal of the clitoris and/or the prepuce. In medical literature, this form of FGM/C is also referred to as ‘Clitoridectomy’. Some of the practicing communities also refer to it as sunna, which is Arabic for ‘tradition’ or ‘duty’.
- Type II is the partial or total removal of the clitoris and labia minora, with (or) without excision of the labia majora. The 2007 WHO definition recognizes that this form of cutting is more extensive than Type I. In English, this type of cutting is often referred to as ‘Excision’, although in French the term for ‘excision’ generally refers to all forms of FGM/C.
- Type III is the narrowing of the vaginal orifice by cutting and bringing together the labia minora and/or the labia majora to create a form of seal, with or without excision of the clitoris. In most cases, the cut edges of the labia are stitched together. This is referred to as ‘infibulation’. The adhesion of the labia results in a near-complete covering of the urethra and the vaginal orifice, which must be reopened for sexual intercourse and childbirth. This procedure is known as ‘defibulation’. In some instances, this is followed by reinfibulation which is the resuturing of the incised scar tissue from infibulation.
- Type IV includes all other harmful procedures to the female genitalia for non-medical purposes. Some examples are pricking, piercing, incising, scraping, and cauterization. Pricking or nicking involves cutting to draw blood, but no removal of tissue and no permanent alteration of the external genitalia. This is sometimes called ‘Symbolic Circumcision’. Although symbolic circumcision is still highly controversial, it has been proposed as an alternative to more severe forms of cutting in both African and other countries where FGM/C is performed.

⁷ United Nations Children’s Fund, *Female Genital Mutilation/ Cutting: A statistical overview and exploration of the dynamics of change*, p7, UNICEF, New York, 2013 (Jul. 28, 2022) <https://data.unicef.org/resources/fgm-statistical-overview-and-dynamics-of-change/>.

THE SCIENCE BEHIND (OR LACK THEREOF) GENITAL MUTILATION

The topic of reproductive health garners still, a dismissive reaction from the general public. The degree of complexity and proper awareness of the anatomy involved is quintessential in ensuring healthy, safe sexual relations. A barbaric practice that arises from the lack of the aforementioned knowledge is the strange phenomenon of “Genital Mutilation”. Pertinent to this crime is the need for creating an awareness of the basic anatomy involved in intercourse and reproduction. The female genitalia is the more misunderstood counterpart in any given society, be it literate or illiterate resulting in an all-encompassing term “Vagina” for all anatomical areas. Firstly, the extremities of the female genitalia are composed of the following:

1. The Labia, which in turn are divided into two components:
2. the Labia Majora and Labia minora,
3. The clitoris, the Vaginal, and Urethral openings.
4. The exterior is collectively referred to as “Vulva”.

The Labia are fleshy, lip-like structures that exist as a protective and sexually proactive cover of the vaginal canal. They are primarily composed of skin folds with a layer like structures. The Labia Majora is situated on the outside and is the larger skin folds that precede the Labia Minora. Labia Majora covers the entirety of secretory glands, clitoris, and the vaginal canal. Labia Minora is the smaller, more inwardly located component of the Labia. It acts as a hood over the Clitoris and forms the borders of the vulva vestibule, which is the spatial spread of sensitive skin located behind the Minora.

The vulva vestibule houses both the reproductive (Vagina) and urinary (Urethra) openings. The Labia are capable of engorgement through increased blood flow. The Clitoris is the homologous counterpart of the male penis, which implies a certain degree of similarity in structure and function between the both. As an integral component of the intercourse, the Clitoris is akin to the penis in that it is also composed of some type of tissues that result in the enlarging of the penile structure by acting as a reservoir for the blood that enters the tissues.

The Clitoris is composed of two elements: The Glans Clitoris, the peripheral and the only visible component, and the Clitoral body which lies hidden. The Clitoris is classified as a sensory organ because of the extensive innervation (nerve endings) and vascularity (blood

vessels) making them very responsive to stimulation and therefore, a crucial component in sexual intercourse. The Vaginal opening is located on the inside of the Vulva Vestibule and opens into the canal of flexible muscle, called the “Vagina”. It remains partially covered by a mucosal structure called “Hymen” which is primarily regarded as a sign of virginity. The Urethral opening is located vertically inferior to the clitoris and superior to the Vaginal opening. It is an extension of the urinary bladder with a singular purpose of excretion⁸.

The Genital Mutilation procedures ostensibly revolve around the extremities of the female reproductive anatomy. The WHO lists female genital mutilation in four distinct classifications: Types 1 to 4. Type 1 includes removal or injury restricted to the Clitoris and the clitoral hood. The Clitoris is seen as an impure element and deemed fit to be removed. Type 2 refers to the excision of the Labia along with the Clitoris. Type 3 involves a procedure called “Infibulation”. Infibulation implies the excision of a tissue causing scar tissue to occupy the lost volume as the injury heals. The Labia, Clitoris are removed and the vaginal opening is made narrow by either suturing the ends of the vaginal opening together or excising a portion of the tissue around the vagina to create a wound and suturing to facilitate the fusion of tissue around the opening effectively “shutting off” any signs of vaginal entry. Type 4 involves the trivial forms of perpetrated injury by cauterizing, nicking, and removing parts of the exposed female genitalia. All four types involve a risk of fatality by way of profuse hemorrhage, pus collection in the wounds, infections, and the amount of unbearable pain involved in the procedure. The wound after the infibulation procedure is held shut with a clamp fashioned from a split cane holding the severed tissues together. The legs of the female are tied together to somehow facilitate unhindered healing. Even the passage of urine is arrested for the duration of the wound healing as the clamp will not be removed for as long as the custom demands it to be placed there. The wound is inserted with a twig to allow for a small aperture as the scar tissue forms around the twig. This aperture is meant for the passing of urine and menses.

The entire procedure is performed by a “midwife” with the help of a sharp instrument, most commonly a razor. The training of these midwives is questionable and often cases of negligence emerge, such as when the urethral opening is also cut along with the Labia, resulting in the urethral orifice caving in, causing complete blockage of urine. The exposed nerve endings of the severed Clitoris cause immense pain because of the sensory nature of the nerves. The

⁸ Yvonne Zurynski, Premala Sureshkumar, Amy Phu, Elizabeth Elliott, *Female genital mutilation and cutting: A systematic literature review of health professionals’ knowledge, attitudes and clinical practice*, 15 BMCIHHR (2015) <https://bmcinthealthhumrights.biomedcentral.com/track/pdf/10.1186/s12914-015-0070-y.pdf>.

psychological trauma of this procedure is bound to cause a steep decline in the mental health of the victim. This infibulation is undone after marriage to facilitate fornication. The aperture is opened again with a knife or by other methods, all of which entail a myriad of health risks and complications. The formation of keloids and lumps of scar tissue may also cause a decrease in the flexibility of the vaginal opening. Childbirth is even more painful and complicated due to the poor flexibility of the scar tissue where Labia (normal skin tissue) should have been, causing a constricted opening. There is a massive decrease in sexual pleasure due to the loss of Clitoris, often replaced by pain due to the varied nature of physical complications in the healed wounds of the mutilation procedure⁹.

Thus the chief medical risks caused by FGM are:

- Acute pain due to lack of local anesthesia
- Post-operative hemorrhage
- Urinary infection
- Pelvic infection
- Septicemia and tetanus due to the use of unsterilized equipment
- Dysmenorrhea due to the growth of keloid scars that obstruct the vaginal orifice
- Painful intercourse due to scarring and infection
- Prolonged and obstructed childbirth due to unyielding scars
- Post-partum hemorrhage due to tearing of scar tissue or the uterine cervix

Several of these conditions can result in serious trauma or death.

PHILOMENA: THE STORY OF A SEVEN-YEAR CIRCUMCISED GIRL

Philomena, a girl of seven from Kenya was one among the hopefuls who were very excited at the prospects of learning along with free lunch in her school. But a few months later, when spring came, her mother told her to get ready to visit a special place for women. The next day,

⁹ Allan Worsley M.B., Ch.B. (Birm.), *Infibulation and Female Circumcision: A study of little known custom*, 45 BJOG, 686-691 (1938) <https://obgyn.onlinelibrary.wiley.com/doi/epdf/10.1111/j.1471-0528.1938.tb11160.x>.

a nervous and excited Philomena learned that she was not the only girl- some of her friends from school were also going to the special place. She had heard of the special things that happened to girls at the “secret societies” and could not wait to see what the surprise was. What she encountered turned out to be indescribably and terrifyingly painful. Her aunts and grandmother held her down as a traditional circumciser cut her between her legs. She fainted from the pain and when she woke up on a cot, her legs were bound together to stop the bleeding. She wasn’t given any medicine for the pain or the bleeding¹⁰.

But this story is not just that of Philomena’s. Thousands of girls as young as seven and fifteen continue to be circumcised even to this day. There has been an overall decline in the prevalence of FGM/C over the last three decades. Yet, not all countries have made progress and the pace of decline has been uneven. While in most countries, the majority of girls were cut before age 5, In Yemen, 85% of girls experienced the practice within their first week of life. More than half live in just three countries: Indonesia, Egypt and Ethiopia 44 million are girls below age 15. In nearly all countries FGM/C is usually performed by traditional practitioners, more than half of girls in Indonesia underwent the procedure by a trained medical professional. Thus with more awareness and knowledge, more information about previously unknown cases of FGM/C becomes known.

The only available evidence to corroborate comes from small-scale and sometimes outdated studies or anecdotal accounts. There are no representative data as of yet on the prevalence of the practice. The practice is also found in pockets of Europe, Australia, and North America which have been destinations for migrants from countries where the practice still occurs.

To this day, the primary source of nationally representative data on FGM/ C has been household surveys. But as the understanding of the practice grows, so do the efforts undertaken to collect data in countries where the practice is widespread.

It was widely acknowledged for some time that FGM/C was practiced in the Kurdish region of Iraq and, in 2011 the first-ever national household survey that collected data on the practice in the country was conducted. Similarly, in 2013, the Ministry of Health in Indonesia included

¹⁰ Anne Firth Murray, *Outrage to Courage: The unjust and unhealthy situation of women in poorer countries and what they are doing about it* 39 (Cannon Courage Press 2013).

questions on the prevalence of FGM/C among the youngest girls in one of its household surveys, thus producing national prevalence data on the issue for the first time¹¹.

THE SECRET SOCIETIES

There is no doubt about the existence of secret societies in various parts of Africa. These are ancient cultural institutions that are still present to this day. Their primary purpose is to canalize and control the powers of the *spirit world*, many of which are captured in masks and other artifacts. The other purpose of these organizations is FGM or the Cutting Practice. These societies induct members through initiation and both the initiated and non-initiated members must observe a range of laws and protocols. The basic laws are

- Firstly, that initiated cannot speak of the society's affairs to the non-initiated;
- Secondly, the non-initiated must not witness the society's rituals

While being initiated, girls work cooperatively on a variety of tasks for female elders. Some of these include- weeding farms, washing clothes, cooking, and repairing mud and wattle houses. Though these tasks are not new to the girls (who have been familiar with them since early childhood), initiation teaches them to view these tasks anew in their female identity. These tasks also prepare a girl for her future role as wife and co-wife living and working together in their husband's compound. Where females of the society are trained to become dutiful wives and mothers, male initiates are trained to become leaders. Before their initiation, boys can parade in their home neighborhood in sexually ambiguous attires, with elaborately coiffed hair and powdered faces, but once in seclusion inside the societies, they undergo competitive tasks and tests of physical prowess and endurance in their initiation period. Some of these tasks and tests include- wrestling, acrobatic contests, swimming races, and load-carrying trials. They are also made to participate in mock trials, courts, and debates, thereby learning the oratorical skills of chiefs and elders¹². Thus, the secret societies are effectively public organizations to maintain and discipline the society and to live together as harmonic human beings.

¹¹ United Nations Children's Fund, *Female Genital Mutilation/Cutting: A global concern*, UNICEF, New York, 2016 (Jul. 28, 2022, 2.43 PM) <https://data.unicef.org/resources/female-genital-mutilationcutting-global-concern/>.

¹² Fanthrope R., *Sierra Leone: The influence of secret societies, with special reference to female genital mutilation*, Writenet Report, 2007 (Jul. 29, 2022, 3.15 PM) <https://www.refworld.org/docid/46cee3152.html>.

THE IMPACT ON EDUCATION

Education is a lifetime inheritance. A study commissioned by Action Aid Kenya in 2006 found that the age for undertaking FGM was declining with a majority facing it between ages 6-7 when resistance is minimal. This practice has disastrous effects on education. After the initiation, girls face “lover” social restrictions. After FGM, the resultant pattern is pregnancy, school dropout, and eventually early marriage. The government has provided grants to some girls and awarded bursaries to female pupils. But despite this girl’s level of performance remains significantly low. Factors that contribute to FGM persistence have been exhaustively investigated although much attention has been paid to the physical damage and its effects on the academic and professional development of the girl child, the health effects of FGM on the girl, and the social effects; especially adaptation to the formal school setting. After FGM practice, socialization, and acquisition of knowledge have been neglected. As a result, no effort has been made to empower these girls to improve on education prospects as a way of effectively.

STATEMENT	SA/A	N	A/SD
1. FGM lowers girls’ ambition for education	63% (67)	4% (5)	33% (34)
2. Girls don’t desire to go back to school after circumcision	55% (59)	15% (7)	30% (40)
3. Girls’ Class Performance declines after FGM	57% (59)	-	43% (49)
4. Impact of FGM on early pregnancy	96% (103)	-	4% (3)
5. Impact of FGM on Girl Child Class Performance	72% (76)	-	28% (30)

Table 1: Effects of Circumcision on Girl Child Education Participation in Primary Schools¹³

¹³ Enos B. Mukadi, *Influence of Female Genital Mutilation on Girl Child’s Education Participation in Primary Schools: A Case Study of the Tugen Community in Baringo County, Kenya*, 4 IJCAR 188, 2017 <https://www.ungei.org/sites/default/files/Influence-FGM-Girl-Participation-Primary-School-eng-2017.pdf>.

The above table indicates the participation and its reason for the decline in the same by girls. The United Nation's Report on the Influence of Female Genital Mutilation on Girl Child's Education Participation in Primary Schools finds as follows:

“FGM lowers girls’ ambition for furthering their education. Those who generally agreed with this statement are 63%, the neutral respondents were 4% and those who generally disagreed with the statement were 33%. This is because of the preference accorded to marriage as emphasized by the community. FGM has impeded the government’s efforts to raise the literacy levels of the women in the Tugen community. Despite the huge investments by the government in formal education and the embracement of the free formal primary and secondary school education by this community, there is still a notable imbalance in girl child’s participation in upper primary school education compared to their neighboring Tugen communities which do not practice FGM. According to a local NGO’s survey, the girls’ school dropout rate is the highest in the divisions covered by the Tugen community, where the dropout rate stands at 70%¹⁴.”

THE HOPE OF EDUCATION

The Program Advisor for USAID Somalia MaryBeth McKeever believes that implementation should be focused on community education communities (CEC) and organizations. These organizations and communities are inclusive of teachers, students, parents, and school administrators. The CECs are instrumental in increasing girls’ education and can help girls and women make informed choices and decisions that will impact their health and life. Education and awareness go hand in hand concerning this practice and its risk. Educating young girls and women about the dangers of FGM can have a long impact on the way FGM is perceived by them individually and collectively. People need to voice out the issue for it to be discussed and solutions to be brought about and implemented. Education is the first step towards that.

The International Center for Research on Women published a report on FGM and education that stated that, *while research needs to be done, “emerging evidence illustrates that basic education can be an effective instrument for abandoning the practice of FGM”*. Education exposes students, male and female to a variety of competing ideas and concepts and a broader worldview. This allows them to make more informed decisions regarding their reproductive health and agency. A joint American and Liberian Ngo the Global Woman PEACE Foundation

¹⁴ *ibid.*

has devised their curriculum for teachers and administrators to make them aware of the type of conversation that can be had about FGM and the reproductive rights of their students. The Tostan Education Programme has a four-part plan for its target students teaching them about human rights, reproductive health, hygiene, and problem-solving.

The main focus of school-based interventions across the world is to integrate the information on FGM into compulsory science curriculums. School-based interventions are emphasized as they highlight the link between FGM and education and the role it plays in abolishing the practice. Mobile schools and boarding schools, improved sanitation facilities, and better quality education curriculums are all part of UNICEF’s education initiatives with local governments and contribute to ending the practice of Female Genital Mutilation or Cutting. Healthcare personnel play a key role in ending the practice. Some programs in Egypt aim to introduce information on FGM to medical and nursing courses pursued by students¹⁵.

THE LEGAL SIDE OF FGM: WHAT IS BEING DONE IN KENYA AND NIGERIA?

The Constitution explicitly prohibits	
x	Violence against women and girls
x	Harmful Practices
x	Female Genital Mutilation (FGM)
National Legislation:	
x	Provides a clear definition of FGM
✓	Criminalizes the performance of FGM

¹⁵ Bradley O., *The Link Between FGM and Education*, The Borgen Project (Jul. 29, 2022, 1.56 PM) <https://borgenproject.org/the-link-between-fgm-and-education/>.

✓	Criminalizes the procurement, arrangement and/or assistance of acts of FGM
x	Criminalizes the failure to report incidents of FGM
x	Criminalizes the participation of medical professionals in acts of FGM
x	Criminalizes the practice of cross-border FG
✓	Government has a strategy to end FGM

Table 2: Overview of Domestic Legal Framework in Nigeria for FGM¹⁶

Kenya	Nigeria
<ul style="list-style-type: none"> • Prohibition of FGM Act, 2011 • Children’s Act of 2001 • Penal Code Cap 63 • Protection Against Domestic Violence Act 2015 • Medical Practitioners and Dentists Act (Revised 2012) • Nurses Act (Revised 2011) 	<ul style="list-style-type: none"> • Medical and Dental Practitioners (Disciplinary Tribunal) Rules, 2004 (the Medical Act) • National Health Act 2014 • HIV and AIDS (Anti-Discrimination) Act, 2014 • Violence Against Persons Prohibition Act 2015

¹⁶ Thomas Reuters Foundation, *Nigeria: The Law and FGM*, 28TooMany (2018) [https://www.28toomany.org/media/uploads/Law%20Reports/nigeria_law_report_v2_\(may_2021\).pdf](https://www.28toomany.org/media/uploads/Law%20Reports/nigeria_law_report_v2_(may_2021).pdf) .

<ul style="list-style-type: none"> • National Policy for the Eradication of Female Genital Mutilation 2019 • National Adolescent Sexual and Reproductive Health Policy 2015 • National School Health Policy 2019 • National Plan of Action for the Elimination of FGM in Kenya 1999-2019 • Reference Manual for Health Care Providers on Management of Complications from FGM/C (2007) 	<ul style="list-style-type: none"> • Imo State Female Genital Mutilation Law 2017 • National Gender Policy 2006 • National Policy on the Health and Development of Adolescents and Young People in Nigeria 2007 • National Gender Policy Strategic Framework (Implementation Plan) 2008–2013 • National Policy and Plan of Action for the Elimination of Female Genital Mutilation in Nigeria 2013–2017
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Table 3: FGM/C-related laws and policy documents in Kenya and Nigeria¹⁷

Though the laws and rules have wide coverage, evidence from field studies on the medicalization and the response of the healthcare system to FGM/C prove that interventions are not integrated into the existing healthcare programs. This indicates that the policies are not being implemented properly, possibly due to a lack of updated national-level plans of action that would bring out the required resources for the same. Additional research would also be needed to establish what will be required to implement the already well-articulated policies in the health sector.

While the Nigerian Constitution and the CRA don't explicitly mention FGM/C, there are provisions that refer to the illegality of the practice such as follows:

- **The 1999 Constitution of the Federal Republic of Nigeria (CFRN):** The supreme law states in Section 34 that *no person shall be subjected to any form of torture,*

¹⁷ Kimani Samuel & Otibho Obiwanu, *Female Genital Mutilation/Cutting: A review of laws and policies in Kenya and Nigeria*, Evidence to End FGM/C: Research to Help Girls and Women Thrive 4, (2020) https://www.popcouncil.org/uploads/pdfs/2020RH_FGMC-LawsKenyaNigeria.pdf.

inhuman or degrading treatment or punishment FCM/C falls under the above categories and thus can be punishable under this section.

- **The Child Rights Act (CRA), 2003:** It has some provisions that outlaw FGM/C practice. Section 11(B) of this act states that "*no child shall be subjected to any form of torture, inhuman or degrading treatment or punishment.* However, it must be noted that this act is only enforced in 23 states and Nigeria's Federal Capital Territory (FCT), Abuja.

While these two examples appear to deem FCM/C illegal, they don't specifically mention the practice. As a result, lawyers, NGOs, and anti-FCM campaigners in Nigeria came together and started to advocate for a law that would specifically mention FCM/C as a criminal offense¹⁸.

- **The Violence Against Persons (Prohibition) Act, 2015 (the VAPP Act):** It is the first federal law that attempts to prohibit FGM/C across the whole country. The VAPP Act aims to eliminate gender-based violence in private and public life by criminalizing and setting out the punishment for acts including rape (excluding marital rape), incest, domestic violence, stalking, harmful traditional practices, and FGM/C. The VAPP Act, being a federal law, is only effective in the Federal Capital Territory of Abuja.

Before the VAPP Act, several states had already enacted state laws dealing with child abuse, child protection issues, violence against women and girls, and criminalizing the practice of FGM, including:

- Bayelsa State – FGM (Prohibition) Law (2004)
- Cross River State – The Girl-Child Marriages and Female Circumcision (Prohibition) Law (2000)
- Ebonyi State – Law Abolishing Harmful Traditional Practices Against Women and Children (2001)
- Edo State – Prohibition of Female Genital Mutilation Law (1999)
- Enugu State – FGM (Prohibition) Law (2004)
- Rivers State – Child Rights Act (2009)¹⁹

¹⁸ Ugwu S. Nnamdi, *FGM in Nigeria: Combative Legislation and the Issue's Impact on the Economic Growth of Women*, Impakter (Jul. 29, 2022, 5:18 AM) <https://impakter.com/female-genital-mutilation-in-nigeria-combative-legislation-and-the-issues-impact-on-the-economic-growth-of-women/>.

¹⁹ Thomas Reuters Foundation, *supra* note at 16.

Additionally, the VAPP Act outlines a set of punishments for FCM. These punishments include:

- Anybody who performs or engages another to perform FGM/C on any person is liable to a term of imprisonment not exceeding 4 years or to a fine not exceeding N200,000 or to both.
- Anybody who attempts, aids, abets, or incites another to carry out FCM/C is liable to a term not exceeding 2 years imprisonment or to a fine not exceeding N100,000 or to both.

CONCLUSION

The act of FGM should at its core be interpreted as a cultural practice rooted deep in the essence of spiritual ethos of the primitive populations that far precede our modern sensibilities. This paper sheds light on the concealed rationale behind this practice which is the authoritative control of women's sexuality and discusses the forceful and violent means involved in the process. A firm emphasis on the greater involvement of governmental and healthcare structures in creating a change towards the elimination of this inhumane practice is staunchly advocated. The importance of intervention of human rights associations in bringing awareness about how sexual rights are quintessential human rights and therefore should not be violated in the name of culture for women is also scrutinized. The unsanitary conditions and the brutality of the process culminating in lifelong medical complications is detailed in the paper. The varied mechanisms underlying FGM across multiple cultures resulting in categorization of the types is also expounded upon. The untold trauma women experience early as ill-fated children at the grasp of this unfounded practice further bolsters the need for UNICEF to propose effective initiatives aimed to achieve a greater impact on safeguarding female children from this process. The initiatives should embody the encapsulated efforts of NGOs, the educated males in the greater public and that of the affected female victims who now advocate against FGM as a whole. The efforts undertaken to outlaw this practice and bring awareness to the affected populations are in a desperate need to be accelerated by way of legal and financial backing by the corresponding governments. The paper concludes that the journey towards eliminating FGM as a dehumanizing practice best left as a remnant of a rich past is daunting but ultimately one that shines through as a ray of hope for the next female child in need of saving from a world of pain and a life of oppression.