

SHOULD FEMALE GENITAL MUTILATION BE DECRIMINALISED IN NIGERIA? AN EMPIRICAL JUSTIFICATION FROM STATUTORY AND RELIGIOUS PERSPECTIVES

*Mariam A Abdulraheem-Mustapha**

Abstract

Female genital mutilation has been in practice in almost all African countries, including Nigeria. It is a practice that involves the deliberate cutting of the external genitalia of girls who are under the age of 15 years. Many African cultures and religions have accepted this practice as a means towards promoting the chastity of women and as a rite of passage to womanhood. However, FGM appears to cause much more damage to the sexual and reproductive health rights of female gender. Therefore, the practice currently is seen as harmful and as a violation of human rights enshrined in the Bills of Rights and Constitutions of all African countries. It is on this basis that it is increasingly being criminalised in many jurisdictions. Arguably, this is the justification for criminalising the practice in the Nigerian laws, especially section 6 of the Violence Against Persons (Prohibition) Act, 2015. However, despite its criminalisation, FGM remains a prevalent practice and there are viable customary/religious arguments in support of the practice. As a result of this, there must be a creative means of striking a balance between the cultural/religious demands and the constitutional/criminal requirements in Nigeria. This chapter interrogates the continued relevance of the criminalisation of FGM in Nigeria and explores a socio-legal approach as a means

* LLB BL LLM PHD; Professor, Department of Public Law, Faculty of Law, University of Ilorin, Nigeria; mariamadepeju78@gmail.com

of balancing culture/religions and supplementing constitutional/criminal obligations using an interdisciplinary approach embedded in socio-legal studies. The findings in this study show the prevalence of FGM to date and suggest some measures in which the criminalisation of FGM can be enforced, among which the interaction between several legal, social and political forces. Socio-legal approaches to supplement the law with advocacy, political will, educational curricula, and participation of gate keepers of FGM in the amendment of the laws are further suggested.

1 Introduction

The female gender, especially children, are the most vulnerable human beings in the world. Many decisions affecting them are made without seeking and obtaining their consents. Some decisions made around them cause more harms than gains, thus, violating most of their fundamental human rights enshrined in the constitutions of virtually all the world. One such decision is the mutilation¹ of their genital organs at a tender age.² The World Health Organisation (WHO) has given a broad and acceptable international definition of female genital mutilation (FGM) as ‘all procedures which involves partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons’.³

The definition propounded by WHO covers all categories, namely, types I, II, III and IV of FGM.⁴ Nigeria is one of the African countries that

1 Mutilation for the purpose of this chapter is used interchangeably with ‘cutting’ or ‘circumcision’.

2 FGM is mostly practiced when the girl is 14 years or younger. See PS Yoder & S Wang ‘Female genital cutting: The interpretation of recent DHS data’ (2013) *Calverton, MD: ICF International* p 39.

3 World Health Organisation (WHO) 2018 ‘Classification of female genital mutilation’, <https://www.who.int/reproductivehealth/topics/fgm/overview/en/> (accessed 4 December 2018); WHO ‘Understanding and addressing violence against women’ 2018, <https://www.apps.who.int> (accessed 4 May 2022).

4 Type I – excision of the prepuce, with or without excision of part or all of the clitoris; type II – excision of the clitoris with partial or total excision of the labia minora; type III – excision of part or all of the external genitalia and stitching/narrowing of the vaginal opening (infibulation); type IV – pricking, piercing or incising of the clitoris and/or labia; stretching of the clitoris and/or labia; cauterisation by burning of the clitoris and surrounding tissue; scraping of tissue surrounding the vaginal orifice (*angurya* cuts) or cutting of the vagina (*gishiri* cuts);

practices FGM to date⁵ despite its criminalisation under the extant laws. Nigerian viewed FGM as religious and cultural practices. This conforms with reports of the United Nations Children's Fund (UNICEF) that despite the enactment of many specific and general/other associated laws that criminalised the practice in many jurisdictions,⁶ there is still an upsurge in the number of girls and women who are victims of genital mutilation.⁷

Examples abound in all African jurisdictions. For instance, in Nigeria, the report shows that the country has been rated the third-largest country in the world that indulges in the practice of FGM.⁸ Studies have further shown that between 2004 and 2015, Nigeria recorded 19.9 million girls and women that have been victims of FGM.⁹ As at 2017, the south-west zone of Nigeria recorded 41.2 per cent; the south-south zone recorded 23.3 per cent; the south-east zone 32.5 per cent; the north-west zone 19.3 per cent; the north-central zone 8.6 per cent; and the north-east zone recorded 1.4 per cent.¹⁰ Although out of the 36 federating units of Nigeria, as reported above, Kebbi, Adamawa; Yobe, Gombe and Bauchi

and introduction of corrosive substances or herbs into the vagina to cause bleeding or for the purpose of tightening or narrowing it; and any other procedure that falls under the definition given above. See WHO Female Genital Mutilation Fact Sheet 241, June 2000, http://www.who.int/topics/female_genital_mutilation/en/. (accessed 3 December 2021).

- 5 National Population Commission (NPC) Nigeria & ICF Macro Nigeria Demographic and Health Survey (2021) Nigeria: Nigeria Population Commission and ICF Macro, <https://www.tradingeconomics.com>; <https://www.nigeriahealthwatch.com> (accessed 5 January 2022).
- 6 See Law 006/PR/2002 of the Republic of Chad; Criminal Code of the Republic of Ethiopia 2004; Law 06.032 on the protection of women against violence in the Central African Republic 2006; Prohibition of Female Genital Mutilation Act 32 of 2011, Kenya; Law 2003-03 on the Repression of the Practice of FGM in the Republic of Benin; Republic of South African Children's Act 38 of 2005, and so forth.
- 7 See UNICEF 'Female genital mutilation/cutting: A global concern' New York UNICEF 2016, https://www.unicef.org/media/files/FGMC_2016_brochure_final_UNICEF_SPREAD.pdf (accessed 20 February 2022).
- 8 As above.
- 9 See B Shell-Duncan and others 'A state-of- the-art synthesis of female genital mutilation/cutting: What do we know?' Evidence to end FGM/C: Research to help women thrive the year? Volume New York Population Council, <http://www.popcouncil.org/EvidencetoEndFGM-C> (accessed 20 February 2022).
- 10 See NB Kandala and others 'Female genital mutilation/cutting in Nigeria: Is the practice declining? A descriptive analysis of successive demographic and health surveys and multiple indicator cluster surveys (2003-2017)' Evidence to End FGM/C: Research to help girls and women thrive (2020), <https://www.popcouncil.org> (accessed 20 February 2022).

states have 0 per cent, to illustrate that either there is no empirically-obtained data from those states for the purpose of avoiding prosecution, or they have banned the practice. The report and studies are confirmed in an interview granted to the author by interview participant (IP) 76 when he expressed that '[t]he knowledge and prevalence of female genital cutting, or circumcision is widespread all over Nigeria'.¹¹

However, it is difficult to obtain precise data of the figures of affected victims partly because of the lack of measures to track the trends and the secrecy surrounding the procedure of the genital mutilation, resulting in a dearth of official data. The view expressed by IP 68 in an interview with the author reaffirms the secrecy of the FGM procedure when she said that 'FGM cannot be eradicated easily like that because it is practised in secret compared with that of boys in my communities, so because the practice is usually hidden, it is very difficult to know the exact victims affected in order to sensitise the actors'.¹²

Due to various challenges associated with FGM, Nigeria signed and ratified many international and regional legal instruments with the domestication of some of them with the emphasis on criminalisation of FGM under the Violence Against Persons (Prohibition) (VAPP) Act, 2015. Surprisingly, however, the criminalisation of FGM does not seem to have either eradicated the practice or solved the challenges, especially the reproductive health challenges and human rights violations. It is based on the seeming ineffective role of the law to stem the practice of FGM in Nigeria that this chapter (re)interrogates the continued relevance of criminalisation of FGM in Nigeria and the practical effects of FGM *vis-à-vis* the fundamental human rights of women and girls.

The chapter further examines the possibility of a socio-legal approach to supplement the criminalisation of FGM. This approach serves as a means of balancing culture/religious and constitutional/criminal obligations using an interdisciplinary method embedded in socio-legal studies.¹³ Considering the criminalisation of FGM and the prevalence

11 Leader of the Circumcision Descendants Association of Nigeria interviewed at Benin City, Edo State (South-South Zone of Nigeria) on 25 February 2022.

12 IP 68, A circumcised businesswoman interviewed at Makurdi in Benue state (north-central zone of Nigeria) on 20 May 2022.

13 The socio-legal research approach involves 'the application of interdisciplinary perspectives through theoretical and empirical research in examining phenomena'. See the British Library 'Socio-legal studies: An introduction to collections' <http://www.bl.uk/reshelp/findhelpsubject/busmanlaw/legalstudies/soclegal/sociolegal>.

of the practice, the chapter seeks to answer four research questions. First, what are the effects of FGM as a basis for its criminalisation in Nigeria? Second, are there adequate and effective legal frameworks and policies put in place to eradicate FGM in Nigeria? Third, if yes, why is FGM still prevalent in Nigeria? Four, if no, what are the measure(s) or mechanism(s) that need to be put in place for the eradication of FGM in Nigeria?

2 Methodology and data

In answering the above research questions, the chapter adopts a qualitative method. The author does a content analysis of literature and statutes while further engaging the key informants/stakeholders to obtain first-hand information and lived experiences of both the victims and perpetrators of the practice of FGM in Nigeria. Eighty-five participants interviewed for this study are selected through a purposive sampling technique from the six geo-political zones of Nigeria.

In the south-west (Lagos, Lagos-state Ibadan-Igboho-Oyo, Oyo-state, Abeokuta, Ogun-state, Akure, Ondo-state, Ado-Ekiti, Ekiti-state, Osogbo, Osun-state); south-east (Awka, Anambra-state, Enugu, Enugu-state, Owerri, Imo-state); south-south (Asaba, Delta-state, Benin-city, Edo-state, Port Harcourt, Rivers-state, Yenagoa, Balyesa-state); north-central (Abuja, Federal Capital Territory, Ilorin, Kwara-state, Makurdi, Benue-state, Minna, Niger-state, Lafia, Nasarawa-state, Lokoja and Okene, Kogi-state, Jos, Plateau-state); north-west (Kano, Kano-state, Kaduna, Kaduna-state, Sokoto, Sokoto-state); and north-east (Bauchi, Bauchi-state, Gombe, Gombe-state, Katsina, Katsina-state, Maiduguri, Borno-state, Yola, Adamawa-state).

After ethical approval was sought and obtained from the Ethical Review Committee of the University of Ilorin Nigeria, data is elicited from the participants through a semi-structured interview tool.¹⁴

html (accessed 16 February 2022); V Levičev 'The synthesis of comparative and socio-legal research as the essential prerequisite to reveal the interaction of national legal systems', <http://www.tf.vu.lt/en/science/researchers-conference-2015/researchers-conference-2013> (accessed 16 February 2022).

14 The interviews were conducted by the author between September 2021 and June 2022 with a set of team players of the 'Network for Vulnerable Persons in Nigeria' a non-governmental organisation recruited and trained as research assistants to join the author in conducting the interviews.

Informed consent forms were provided for the respondents to sign or thumb print after explaining to them and when they perfectly understood the purpose and objectives of the study before the interviews were conducted. The emphasis was placed on freedom to withdraw from participating in the study. Total confidentiality of the respondents' information was maintained, and they were completely anonymous with respect to their responses. The interviews run between the period of 30 July 2021 to 15 June 2022.

The participants consist of religious scholars; sex workers; obstetricians and gynecologists; community heads or leaders; healthcare providers; parents of circumcised and uncircumcised girls; circumcised and uncircumcised women and girls; husbands to circumcised and uncircumcised women; circumcisers; academics; and legislators. This is done to carefully select key informants that can provide informed responses to questions that are specific to them and to the subject matter under study. They are chosen because of their impacts and engagement with FGM and its effects. The interview tool is aimed for the purpose of eliciting information on the personal experiences of women, girls, circumcisers and the personnel on the nexus between the current laws and policies on the criminalisation of FGM, the prevalence of FGM *vis-à-vis* the violation of human rights of victims of FGM in Nigeria.

The justification for this empirical adventure is the fact that there is remarkably scant primary data in the public domain available for analysis because of the secrecy surrounding the procedure as most of the actors/operators are traditional circumcisers. There is a dearth of recent data on live experiences of victims and perpetrators of FGM in Nigeria. The only available data is a statistical survey conducted between 2003 and 2017 by *Kandala and others*,¹⁵ and a descriptive summary of victims of FGM in only two states in the south-eastern region of Nigeria conducted by Obiora, Maree and Nkosi-Mafutha in 2020.¹⁶ The current situation of the prevalence of FGM in Nigeria can only be verified through direct interaction with the gatekeepers/frontline actors and victims in all 36 states of the federating units on which the author embarks in this

15 As above.

16 OL Obiora and others 'Experiences of young women who underwent female genital mutilation/cutting' (2020) *Journal of Clinical Nursing*, <https://www.onlinelibrary.wiley.com/doi.org/10.1111/jocn.15436> (accessed 20 February 2022).

chapter. It therefore is possible through the field research to obtain the underlying reasons for the continuous attitudes of the key actors, the effects of FGM and why the law criminalising the practice is ineffective.

The content analysis of the literature and legal instruments were blended with the thematic analysis of the data obtained from the interviews after the extracts of the transcript were studied to answer the research questions. The study limitations lie with the security situation of the country and funding constraints that limited the author to those cities as indicated in table 1 and mainly adopting audio-recording with the help of research assistance¹⁷ for the interviews. Table 1 below shows the detail grouping of the respondents to the interviews. Analysis of the responses of the respondents interviewed reveal that the debate revolves around FGM *vis-à-vis* human rights and criminalisation. These are discussed below.

Table 1 *Background information of the respondents interviewed*

Participants	Study area	Occupation	Academic and professional qualification	Sex	Unit of analysis
IPS18 1-5	Lagos, Ilorin Kano, Kaduna and Abuja	Islamic clergies	BA	M	Islamic/Shari'a scholar/ Muslim leaders
IPS 6-10	Ilorin, Lagos, Ibadan and Port Harcourt	Business-women	ND, NCE and Secondary education	F	Sex workers
IPS 11-15	Osogbo, Ibadan, Yola and Maiduguri	Medical Practitioners	MBBS	F	Obstetrician & gynecologists

17 The author is grateful to the members of Network for Vulnerable Persons in Nigeria, a non-governmental organisation, for their assistance during the interview phase of this study.

18 Interviewed participants is abbreviated to IPS.

IPS 16-20	Igboho, Ado Ekiti, Akure and Kano	Traditional rulers	Pharmacist, Islamic education	M	Community heads/ Islamic scholar/ District heads
IPS 21-25	Ilorin, Oyo, Abeokuta and Lokoja	Circumciser	No formal education	F	FGM Operators
IPS 26-30	Lagos, Minna, Ilorin, Asaba and Benni city	Nurses	M Sci	F	Healthcare providers
IPS 31-38	Okene, Jos, Enugu and Lagos	Pastors	B Theology	M	Christian clergies
IPS 39-45	Abuja, Ilorin, Owerri and Sokoto	Civil servant	M.Ed	M and F	Mothers to uncircumcised girl child
IPS 46-50	Owerri, Lagos, Ilorin, Oyo and Kaduna	Housewives	No formal education/ Primary education	F	Circumcised women and Uncircumcised women
IPS 51-55	Awka, Ilorin, Katsina and Bauchi	Circumcisers	M Sci	F	FGM operator/ Nurses
IPS 56-60	Yenagoa, Ilorin, and Ibadan	Legal practitioners	LLB, LLM	M and F	Legislatures
IPS 61-65	Enugu, Port Harcourt and Uyo	University student	Under-graduate	F	Circumcised women and members of Civil Society Organisation/ NGOs
IPS 66-70	Akwa Ibom, Markudi and Ilorin	Business women	ND	F	Circumcised women
IPS 70-75	Jos, Lafia and Ilorin	Parents	Primary education and ND	M and F	Fathers and mothers to circumcised girl child

IP 76	Benin-city	Circumciser	Diploma in public health	F	Leader of Circumcision Descendants Association of Nigeria
IPS 77-80	Sokoto, Kaduna, Port Harcourt and Gombe	Lecturers	Professor and BA religion studies	M	Husbands to uncircumcised women
IPS 81-85	Birni Kebbi, Bauchi, Ilorin and Minna	School teachers	BA	M	Husbands to victims of mutilation

3 Review of literature on female genital mutilation in Nigeria

Over the years, the practice of FGM has been linked to cultural and religious beliefs. In Nigeria there is an ancient belief by Nigerians that a refusal to indulge in the mutilation of a girl child is a taboo and a slap to their culture and religion, hence, the prevalence of the practice to date. Instructively, Nigerian scholars, among whom Oba,¹⁹ hold the notion that the discontinuance of the practice arises from Western domination, exploitation, and manipulation of its economy by the West.²⁰ Thus, the criminalisation of FGM has been seen to be counter-productive and ineffective. This part reviews the literature under two classifications: first, scholars who are pro-circumcisionists based on culture and religions; second, the anti-circumcisionists who are against FGM. The latter scholars are pro-human rights groups that argued for the criminalisation and abolition of FGM.

Among the pro-circumcisionist scholars are Rahman and Toubia; Carr; Odimegwu and Okemgbo; Bourdieu; Fran; Utz-Billing and Kentenich and Tangwa. Toubia pointed out that FGM is ‘a fundamental part of collective cultural experience that relates to the essence of a girl’s

19 AA Oba ‘Female circumcision as female genital mutilation: Human rights or cultural imperialism?’ (2008) 8 Iss.3 (Frontiers) *Global Jurist*. Article 8 <http://www.bepress.com/gj/vol8/iss3/art8> (accessed 20 February 2022).

20 See R Cassman ‘Fighting to make the cut: Female genital cutting studied within the context of cultural relativism’ (2007) 6 *Northwestern Journal of International Human Rights* 128, citing BA Gillia ‘Female genital mutilation: A form of persecution’ (1997) 27 *New Mexico Law Review* 579; MJ Perry ‘Are human rights universal? The relativist challenge and related matters’ (1997) 19 *Human Rights Quarterly* 466.

womanhood, family honour, economic prosperity and social identity'.²¹ According to Carr, the practice 'is meant to preserve the virginity of the girl and ensure genital hygiene'.²² To Odimegwu and Okemgbo, FGM 'reduces sexual urge of a girl/woman, safeguards women against pre- and extra-marital sexual activities as uncircumcised girls are believed to be promiscuous'.²³

In a similar vein, Bourdieu described FGM as 'a habit which has been developed over the years as a body modification which is regarded as a fruit of culture'.²⁴ Fran aligned his study with that of Bourdieu when he posits that 'men use FGM as tool to exercise power and control over their women'.²⁵ The position of Fran is in tandem with the views of Utz-Billing and Kentenich where they opined that FGM 'is a way to guarantee morality and faithfulness of women to their husbands'.²⁶ The position of Tangwa in support of FGM is subject to 'consent' when he postulated that circumcision that is voluntarily requested by an adult woman should be allowed as against a girl child as the latter has no capacity to consent to the mutilation compared with an adult. His perspective is drawn from the 'Nso' culture within North-Western Cameroon.²⁷

The positions of pro-circumcisionists are reaffirmed in interviews conducted by the author with some respondents. For emphasis, IP 76 expressed the following:²⁸

-
- 21 A Rahman & N Toubia *Female genital mutilation: A guide to laws and policies worldwide* (2000) 4.
 - 22 D Carr *Female genital cutting: Findings from the demographic health survey programme* (1997).
 - 23 CO Odimegwu & CN Okemgbo 'Female circumcision and sexual activity: Any relationship?' (2000) 1 *UNILAG Sociological Review* 159.
 - 24 P Bourdieu 'Structures, habitus, power: Basis for a theory of symbolic power' in N Dirks (ed) *Culture/power/history* (1994) A Reader in Contemporary Social Theory.
 - 25 H Fran 'The Hosken Report: Genital and sexual mutilation of females' (1993) Fourth Revised Edition (*Women's International Network News*: Lexington MA) 114.
 - 26 I Utz-Billing & H Kentenich 'Female genital mutilation: An injury, physical and mental harm' (2008) 29 *Journal of Psychosomatic Obstetrics and Gynecology*, <https://doi.org/10.1080/01674820802547087> (accessed 20 February 2022).
 - 27 GB Tangwa 'Circumcision: An African point of view' in GC Danniston, FM Hodges & MF Milos (eds) *Male and female circumcision: Medical, legal and ethical considerations in pediatric practice* (2022), <https://www.springer.com> (accessed 20 May 2022).
 - 28 IP 76, Leader of the Circumcision Descendants Association of Nigeria interviewed at Benin-city, Edo state (south-south zone of Nigeria) on 25 February 2022.

The knowledge of female genital cutting or circumcision is widespread all over Nigeria for the purpose of reducing sexual urge and promiscuity, beautification of female sexual organ and avoidance of pre-marital sex. We, the circumcisers rely on our traditions and customs which dominated most of the communities without regard for law eradicating the practice. The cutting of clitoris predominates in some communities while some communities practice excision and some practice infibulation. The operators range from traditional operators, Nurses/Midwives, health technicians and even at times, medical doctors.

The view of IP 20 on the prevalence of FGM based on culture was also expressed thus:²⁹

In my opinion, traditions and customs have their effect in some communities including mine. As such, tradition and custom of my community over dominated any law of the land. People do the female cutting regardless of the law due to tradition and custom. For example, people in my community do not know religious scripts whether it is allowed or not, or has shariah said that or not, but they depend on tradition and custom throughout their daily activities.

However, the studies of Adelakan and others;³⁰ Esere;³¹ Owumi;³² Obianyo;³³ and Ajere³⁴ disproved the cultural beliefs that the practice of FGM ‘reduces promiscuity’ and that of ‘ensuring acceptable sexual behaviour including virginity and fidelity’. They argued that FGM could be one of the causes for prostitution as the circumcised women being ‘frigid may require multiple sex with men before they can be sexually satisfied’. Adelakan and others’ studies exposed the circumcised women ‘to have more likelihood of initiating sexual intercourse at age 15 or older and that 95 per cent of those circumcised women in their studies have higher likelihood of having pre-marital sex’. This contradiction of

29 IP 20, traditional ruler interviewed at Oyo, Oyo state (south-west zone of Nigeria) on 15 November 2021.

30 B Adelakan and others ‘Female genital mutilation and sexual behaviour by marital status among a nationally representative sample of Nigerian women’ (2022) 19 *Reproductive Health Journal*, <https://www.reproductive-health-journal.biomedcentral.com> (accessed 5 May 2022).

31 MO Esere ‘A cross-ethnic study of the attitude of married women towards female genital mutilation’ (2003) 1 *Gender Discourse*, citing BE Owumi ‘A socio-cultural analysis of female circumcision among the Urhobos of Delta’ (2003) 2 *Your Task Health Magazine* 8.

32 BE Owumi ‘A socio-cultural analysis of female circumcision among the Urhobos of Delta’ (2003) 2 *Your Task Health Magazine* 8.

33 N Obianyo ‘Harmful traditional practices that affect the well-being of women’ (1997) 1 *New Impact* 16-19.

34 O Ajere ‘Predisposing factors and attitudes towards sex work by commercial sex workers in Nigeria’ unpublished MEd thesis, University of Ilorin, 1998.

cultural beliefs is located within the 'anomie theory' which emphasises that 'human beings are more likely to desire and delve into or indulge in those things which seem to be their legitimate rights, but they had been deprived of it'.³⁵

The view expressed by IP 7 in an interview with the author confirms the above positions, especially as it relates to promiscuity when she was asked about her experience on FGM. She expressed the following:³⁶

I have been circumcised and that does not stop me from doing my business. I feel satisfied when having sex with multiple men per day. It is not true that circumcision or cutting of female genitalia reduces promiscuity because mine is different. If really the justification is correct then why am I striving for more sex from men to satisfy my sexual desire despite being circumcised.

Another pro-circumscionist scholar such as Baba Lee³⁷ posits that FGM is one of the age-long practices that transcends religion, while other scholars, such as Sami,³⁸ Imad-ad-Dean,³⁹ Hayford and Trinitapoli⁴⁰ viewed FGM as religious obligation. Some scholars such as Ahmed and others⁴¹ see FGM as both religious and cultural obligations. The overall contention of these scholars is that FGM promote the 'existence of women races, reproductive continuity and sanctity'.

The position of Baba Lee that FGM is one of the age-long practices that transcends religion is linked to the 'Pharaonic circumcision' whose interest of not being destroyed by a male child ordered 'infibulation' to be carried on all pregnant women to ensure that no woman delivers

35 R Agnew 'The nature and determinants of strain' in N Passas & R Agnew (eds) *The future of anomie theory* (1997) 30.

36 IP 7, a sex worker woman interviewed at Port Harcourt, Rivers state (south-south zone of Nigeria) on 28 December 2021.

37 Baba Lee quoted in KL Savell 'Wresting with contradictions: Human rights and traditional practices affecting women' (1996) 41 *McGill Law Journal* 781.

38 A Sami Aldeeb Abu-Sahlieh 'To mutilate in the name of Jehovah or Allah: Legitimation of male and female circumcision' (1994) 13 *Medicine and Law* 575.

39 A Imad-ad-Dean 'FGM: An Islamic perspective', <http://www.minaret.org/fgm-pamplet.htm> (accessed 5 February 2022).

40 SR Hayford & J Trinitapoli 'Religious differences in female genital cutting: A case study from Burkina Faso' (2011) 50 *Journal of Science Study and Religion* 252.

41 HM Ahmed and others 'Knowledge and perspectives of female genital cutting among the local religious leaders in Erbil Governorate, Iraqi Kurdistan region' (2018) 15 *Journal of Reproductive Health* 44, <https://www.biomedcentral.com/> (accessed 5 December 2022).

secretly for him to hear the screaming from the pain that the pregnant woman would encounter during her birth delivery.⁴²

Scholars that viewed FGM as a religious obligation supported their positions with some narrations from the sayings of Prophet Muhammed (peace be upon him) which include the following: 'A woman used to perform circumcision in Medina [*Madina*]. The Prophet (peace be upon him) said to her: "Do not cut severely as that is better for a woman and more desirable for a husband".'⁴³

In another narration, it was stated thus –Abu- Sahlieh says:⁴⁴

The most often mentioned narration reports a debate between Mohammed and Um Habibah (or Um 'Atiyyah). This woman, known as an exciser of female slaves, was one of a group of women who had immigrated with Mohammed. Having seen her, Mohammed asked her if she kept practicing her profession. She answered affirmatively adding 'unless it is forbidden and you order me to stop doing it'. Mohammed replied: 'Yes, it is allowed. Come closer so I can teach you: if you cut, do not overdo it (*la tanhaki*), because it brings more radiance to the face (*ashraq*) and it is more pleasant (*ahza*) for the husband.'

Abu-Sahlieh says Prophet Muhammed (peace be upon him) said: 'Cut slightly and do not overdo it (*ashimmi wa-la tanhaki*), because it is more pleasant (*ahza*) for the woman and better (*ahab*, from other sources *abha*) for the husband.'⁴⁵

Some of the interviewed participants especially, IPs 3, 4 and 72, articulated the view as follows (IP 3): 'It was done in the past and they say it is shariah. The practice of female cutting is mixed with tradition and religion.'⁴⁶ IP 4 hinted as follows: 'The Prophet (peace be upon him) has said it. I heard that it is being practiced in old times and it has become part of Islamic practice and part of the shariah.'⁴⁷ The expression of IP 72 is thus: 'Female genital cutting is primarily related to the culture, but people think it is related to the religion and they apply it.'⁴⁸

42 BL Yusuf 'Female circumcision: The Islamic perspective' (2005) 1 *AT-TABIB (The Annual Magazine of the Association of Muslim Health Students, College of Medicine, University of Ilorin)* 30.

43 Sunan Abu Dawûd, Book 41, Hadith No 5251.

44 Ahmed and others (n 41).

45 Ahmed and others (n 41) 9.

46 IP 3, Islamic clergy interviewed at Lagos, Lagos state (south-west zone of Nigeria) on 5 November 2021.

47 IP 4, Islamic clergy interviewed at Ilorin, Kwara state (north-central zone of Nigeria) on 20 October 2021.

48 IP 72, parent of circumcised girl interviewed at Lafia, Nasarawa state (north-central zone of Nigeria) on 20 September 2021.

The Christian religion, especially Genesis 17:9-10, provides: 'And God said unto Abraham, thou shalt keep my covenant therefore, thou, and thy seed after thee in their generations.' 'This is my covenant, which ye shall keep, between me and you and thy seed after thee; every man child among you shall be circumcised.' Exodus 12:48 states: 'And when a stranger shall sojourn with thee, and will keep the pass over to the Lord, let all his males be circumcised, and then let him come near and keep it; and he shall be as one that is born in the land: for no uncircumcised person shall eat thereof.'

Also, Luke 1:59 states: 'And it came to pass, that on the eighth day they came to circumcise the child; and they called him Zacharias, after the name of his father.' John 7:22: 'Moses therefore gave unto you circumcision; (not because it is of Moses, but of the fathers;) and ye on the sabbath day circumcise a man.' Acts 7:8 states: 'And he gave him the covenant of circumcision: and so, Abraham begat Isaac, and circumcised him the eighth day; and Isaac begat Jacob; and Jacob begat the twelve patriarchs.' Further, Colossians 3:11 states: 'Where there is neither Greek nor Jew, circumcision nor uncircumcision, Barbarian, Scythian, bond nor free: but Christ is all, and in all.' Galatians 6:15 states 'For in Christ Jesus neither circumcision availeth anything, nor uncircumcision, but a new creature.' Lastly, in 1 Corinthians 7:19 it is stated that '[c]ircumcision is nothing, and uncircumcision is nothing, but the keeping of the commandments of God'.

The anti-circumcisionists, such as Larsen and Okonofua;⁴⁹ Inhorn & Buss;⁵⁰ Salmon;⁵¹ Larsen;⁵² Oringanje and others;⁵³ Obiora, Maree and Nkosi-Mafutha⁵⁴ and Durojaye and Nabaneh⁵⁵ hinged their positions of eradicating FGM on the human rights of girls and women. According to these scholars, the effects of FGM on women and girl children are devastating. To them, FGM has both early and long-term disadvantages

49 Imad-ad-Dean (n39) 27.

50 Hayford & Trinitapoli (n 40).

51 Ahmed and others (n 41).

52 Yusuf (n 42).

53 Sunan Abu Dawūd (n 43).

54 Obiora and others (n 16).

55 E Durojaye & S Nabaneh 'Addressing female genital cutting/mutilation (FGC/M) in The Gambia: Beyond criminalisation' in E Durojaye, G Mirugi-Mukundi & C Ngwenā (eds) *Advancing sexual and reproductive health and rights in Africa: Constraints and opportunities* (2021) 118.

on the female gender. The identified challenges/complications by them include acute pain, shock; hemorrhage; tetanus; necrosis; inability to urinate; damage to urinary canal; chronic vaginal; mensural irregularities; renal failure; infertility; pregnancy complications; Hepatitis B; HIV/AIDS; neonatal deaths, psychological trauma; depression; excessive bleeding and even death. Their positions are related to 'sexual and reproductive rights', 'human dignity', 'autonomy and best interests of the child' and the 'principle of equality and non-discrimination'. According to Baron and Denmark, 'FGM is an unsafe and unjustifiable practice that violates bodily integrity'.⁵⁶ They further supported the position of some feminists' anthropologists who opined that 'FGM is an inhuman form of gender-based discrimination that capitalises on the subjugation of women'.⁵⁷ The descriptive summary of the studies of Obiora, Maree and Nkosi-Mafutha from a Nigerian perspective also shows how FGM has devastating effects on the victims who had lived experiences in Ebonyi and Imo states where their studies were conducted. The study of Durojaye and Nabaneh, which was from a Gambian perspective, further reiterates the need to have complementary measures in addition to the enabling the Gambia Women's Act, 2010 (as amended) to reduce the practice of FGC/M in The Gambia.

To confirm anti- circumcisionists' positions on the adverse effects of FGM and why is it criminalised in the interviews conducted by the author, IPs 11-14,⁵⁸ obstetricians and gynecologists and IPS 26-30,⁵⁹ healthcare providers expressed that 'the most common effect of FGM is development of cyst in the virginal of the victims of mutilation'. This is in tandem with the report by NPC and Macro which identified FGM as

56 EM Baron & FL Denmark *An exploration of female genital mutilation* (2006).

57 C Parker 'Circumcision and human rights discourse' in O Nnaemeka & J Ezeilo (eds) *Engendering human rights: Culture and socio-economic realities in Africa* (2005) p 257.

58 IPS 11-15, Medical experts in the fields of obstetrics and gynecology interviewed at Osogbo and Ibadan in Oyo and Osun states (south-west zone of Nigeria), Yola and Maiduguri in Adamawa and Borno states (North-east zone of Nigeria) on 10-15 December 2021 and 10 and 15 January 2022 respectively.

59 IPS 26-30, Healthcare providers interviewed at Lagos in Lagos state (south-west zone of Nigeria), Minna and Ilorin in Niger and Kwara states (north-central zone of Nigeria); Asaba and Benin City in Delta and Edo states (south-south zone of Nigeria) on 5 November 2021, 8 September 2021; 20 October 2021; 5-8 February 2022 respectively.

‘one of the leading cultural practices responsible for high maternal and infant mortality in Nigeria.’⁶⁰

The position was re-affirmed by IP 12 when she said:⁶¹

A mutilated woman may experience complications during pregnancy and childbirth thereby endangering the life and health of the unborn child. A mutilated woman may also develop psychosexual and psychological problems which may give rise to conflict between her and her husband which may lead to her husband ill health. Further, a mutilated woman may contract hepatitis B or HIV/AIDS which she may transmit to her husband and put him at health risk. In my view, I see FGM as a public health problem because the problem goes beyond the victim herself, it extends to the unborn baby and even the husband who are members of the society or public.

IP 13 further confirmed the health complications during pregnancy when she expressed:⁶²

Women who are mutilated are more prone to complications such as excessive blood in the genital organs which leads to unusual vascular in the area of the vulvar. At the long run, the tissues are infected and increase the hormones in the blood which may also increase the urinary tract infection.

Similarly, IP 15 has this to say:⁶³

The most complication and effect of FGM is ‘infibulation’. Women who undergo infibulation are more susceptible to complications during labour because they are the highest at-risk during childbirth. Their introits will be so tight that it is always difficult to perform vaginal examination on them during labour and as a result, it mostly leads to bleeding from the vaginal. During the postpartum period, mutilated women may transmit HIV or Hepatitis B and it is uncommon to have tetanus.

A mother (IP 72) of a mutilated daughter further confirmed the effects of FGM on her daughter when she said:⁶⁴

I do not know that my daughter’s health problem is due to the mutilation. She was circumcised at age of 5 years and I observed that she bleeds for some days after the

60 National Population Commission (NPC) Nigeria & ICF Macro Nigeria Demographic and Health Survey (2021) Nigeria: Nigeria Population Commission and ICF Macro, <https://www.tradingeconomics.com>; <https://www.nigeriahealthwatch.com> (accessed 5 January 2022).

61 IP 15, a medical practitioner interviewed at Ibadan, Oyo state (south-west zone of Nigeria) on 20 February 2022.

62 IP 13, obstetrician and gynecologist interviewed at Yola, Adamawa state (north-east zone) dated 11 January 2022.

63 Obstetrician and gynecologist interviewed at Maiduguri, Borno state (north-east zone) dated 15 January 2022.

64 IP 72, mother interviewed at Ilorin, Kwara state (north-central zone of Nigeria) on 20 October 2021.

excision but I do not know that she has been effected with infections until she come of age and encountered stillbirth.

IP 72 further said ‘God forbids. I pray the practice is abolished’ when she was asked if she will allow the second daughter to be mutilated.

Unfortunately, IP 76 went further to lament a lack of awareness of the reproductive health rights challenges arising from FGM when he expressed further:

Being the leader of Circumcisers Association of Nigeria, I will campaign against the tradition and religion that permit the practice of FGM now that we have been informed that FGM affects reproductive health right because what we tried to protect on the mutilated girl child include good health and that can be realised and meaningful if she is healthy and if she is not render immobile by a preventable blood borne diseases.

IP 22 does not deny her lack of awareness on the dangers inherent in the practice of FGM when she said:⁶⁵

I inherited the practice from my late mother and I have not encountered any problem on the victims during the process. There is no complaint from the parents of the girls and I have not heard of any health complication from them. I am hearing and understanding the adverse effect of FGM with respect to reproductive health right for the first time from the interviewer.

The view expressed by IP 76 above leads to another question as to whether FGM should be criminalized. In answering this question during the interview, IP 81 expressed the following:⁶⁶

One of the ways that criminalisation of FGM can be effective is to tie it to issue of reproductive health right because as husband to circumcised wife, I would not have encouraged and supported the mutilation of my daughter because of obeying the tradition of my people had it been I am aware of the reproductive health challenges/complications which may arise from the mutilation.

The views expressed by IPs 70-75 when asked about the eradication of FGM were that ‘health complications from the practice of FGM call for its eradication’.

Instructively, this study differs from the analysis of the literature in many respects. The studies of the pro-circumcisionists have been reviewed to the effect that the Nigerians’ justification on the prevalence based on

65 IP 22, a circumciser interviewed at Abeokuta, Ogun state (south-west zone of Nigeria) on 2 March 2022. The author appreciates the support of the research assistance in interpreting the *Egba language into English and vice versa*.

66 IP 81, husband to a victim of mutilation interviewed at Ilorin (north-central zone of Nigeria) on 20 October 2021.

culture and religion is not proportionate to the rights inalienable to the victims. Their postulations did not take into consideration the overall result of damage to health of the victims. Also, the postulation of some scholars linking the practice to Pharaonic circumcision has been observed in this chapter as a self-centred and selfish interest on the part of the promoters of the practice, as the harm and pains are more severe than the benefits attached or derived from the practice. In other words, Gruenbaum is correct when he summed up the practice of FGM and concluded that 'its continuation is against humanitarian values'.⁶⁷ It is pertinent to further interrogate this cultural belief which seems to be either repugnant to natural justice, equity and good conscience or contrary to public policy.⁶⁸ There is a need to employ the repugnancy test to serve as a doctrine of progressive change in the body of customary rules/laws in order to abolish or eradicate the practice of FGM in Nigeria.

Fundamentally, all the Islamic scholars are of the view that 'there is no single verse in the Holy Quran that can be used as a basis for FGM'.⁶⁹ It is pertinent to note that from the foregoing Hadith narrations, it is clear that the practice of FGM is not obligatory but permissible and there is no punishment attached to its discontinuance in either the Holy Quran and even the Hadith relied on by the scholars. It therefore is important to emphasise the provision of the Holy Quran Chapter 4 verse 1 where Allah (God) says:

O mankind! Be careful of your duty to your Lord Who created you from a single soul and from it created its mate and from them twain hath spread abroad a multitude of men and women. Be careful of your duty toward Allah in whom ye claim (your rights) of one another, and toward the wombs (that bare you).

This is to show the equal recognition of male and female genders in the sight of Allah: no discrimination of any kind. We are all equal servants before Allah and no gender is superior to the other.⁷⁰ In similar vein,

67 E Gruenbaum *The female circumcision controversy: An anthropological perspective* (2001).

68 Repugnancy has been explained by AC Enikomeyi *Development and conflict of laws* (1990) 66 to mean 'any rule or indigenous law which robs a man of his inalienable right'. He further explained repugnancy as 'all indigenous laws which justify inhuman or degrading treatment'; *Dawodu v Danmole* (1962) 1 ANLR 702.

69 SR Hayford & J Trinitapoli 'Religious differences in female genital cutting: A case study from Burkina Faso (2011) 50 *Journal of Science Study and Religion* 252.

70 See Quran ch 19 verse 93.

Quran Chapter 2 verse 228 pointed out the equality of right of men and women when it says: 'And women shall have rights similar to the rights against them, according to what is equitable.' In other words, both genders should relate within themselves as that of complementarity and not that of competition.⁷¹

The Holy Quran has also guaranteed the dignity of human person when it provides in Quran chapter 17 verse 70: 'We have dignified the children of Adam ... and favored them over much of creation.' This provision has been admitted by Holy Prophet Muhammed (peace be upon him) when he said: 'Neither inflict nor accept harm.'⁷² This is a remarkable provision of the Holy Quran and Hadith which have long-standing and unshakable principles of human rights. From the biblical verses, it shows that the circumcision referred to the male child and even in the Corinthians cited above, it is no more compulsory to circumcise a male child.

The author aligns with the positions of the anti-circumcisionists on FGM. This study is purely from the Nigerian perspective while some literature reviewed is from foreign jurisdictions such as The Gambia, Cameroon, and so forth. The author also differs with respect to the empirical verification made in the course of this study with an addition of gathering data on the lived experiences of all the stakeholders and victims in all 36 states of the federation. The author's fieldwork has exceeded the studies of Obiora, Maree and Nkosi-Mafutha whose fieldwork covered only two states (Ebonyi and Imo) within the 36 states of the federation. The expansion of the author's fieldwork beyond two states reveals the current status of the prevalence of FGM, its effects, ineffective criminalisation laws and policy and the mechanisms that need to be put in place to eradicate the practice.

71 See Quran ch 4 verse 32.

72 See A Gomaa 'The Islamic view on female circumcision' (2012) *African Journal of Urology*, <https://www.ees.elsevier.com/afju> (accessed 7 March 2022).

4 A critical analysis of the Nigerian legal response to FGM: Human rights versus the criminalisation approach

Women and girls are subject to genital mutilation and an estimated 19.9 million of these have been reported to have been mutilated in Nigeria.⁷³ This shows their vulnerability and how they are being denied autonomous freedom in matters relating to their rights. Nevertheless, the Nigerian government has made significant efforts aimed at according to women and girls' protection against the harmful practices in eliminating FGM.

Among the governmental efforts are its responses to the international and regional calls for the protection of human rights. These legal instruments range from the age-old Universal Declaration of Human Rights, 1948 (Universal Declaration);⁷⁴ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);⁷⁵ the International Covenant on Civil and Political Rights, 1966 (ICCPR);⁷⁶ the International Covenant on Economic, Social and Cultural Rights, 1976 (ICESCR);⁷⁷ the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW); the Convention on the Rights of the Child, 1989 (CRC), the African Charter on Human and Peoples' Rights (African Charter); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol); and the African Charter on the Rights and Welfare of the Child (African Children's Charter).⁷⁸ The Nigerian government promulgates laws and policies after ratifications and domestications of some international and regional legal instruments. Therefore, Nigeria's response shows a complementary intersection between the human rights and criminalisation approach towards FGM.

More importantly, the violation of the right to dignity, harm, cruelty, torture and degrading treatment meted on the person of the girl child cannot be equated with the benefits accrued to all the actors or perpetrators and victims of the act. Arguably, the harm and pain caused

73 Shell-Duncan (n 9).

74 See arts 1, 2, 5 & 7 of the Universal Declaration.

75 See art 2 CAT.

76 See arts 2, 3, 7, 24 & 26 ICCPR.

77 See art 12 ICESCR.

78 See art 3 African Children's Charter.

to the person of the girl child are violations to her human person. This argument is well positioned under chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). For emphasis, section 34(1)(a) of the 1999 Constitution provides that '[e]very individual is entitled to respect for the dignity of his person, and accordingly (a) no person shall be subjected to torture or to inhuman or degrading treatment'.⁷⁹

The provision of section 34(1)(a) of the 1999 Constitution is reiterated in sections 10 and 11 of the Child Rights Act, 2003. The views expressed in the interviews conducted by the author attest to the fact that FGM is a violation to the right to dignity of the girls mutilated. IPs 21-25,⁸⁰ IPs 26-30,⁸¹ IPs 70-75⁸² and IPs 51-55⁸³ identified 'scissors and razors' as tools for the operation of genital cutting. Interestingly, IP 73 described the tools as 'very dangerous and frightening'.⁸⁴ These views are in tandem with the reports of Amnesty International, and a statement from the Office of the High Commissioner for Human Rights that some tools use in the process of mutilating the victim include 'blunt penknife, broken glass, a tin lid, scissors, a razor, or some other cutting instrument'.⁸⁵ More harmful and severe tools such as 'thorns and stitches' are used for type III category of FGM which is infibulation in order to

79 See similar provision in sec 11 of the Child Rights Act, 2003.

80 Interviews conducted between October and December 2021 at Ilorin, Kwara state, Oyo in Oyo state, Abeokuta in Ogun state and Lokoja in Kogi state respectively (north-central and south-west zones of Nigeria).

81 IPS 26-30, healthcare providers interviewed at Lagos in Lagos state (south-west zone of Nigeria), Minna and Ilorin in Niger and Kwara states (north-central zone of Nigeria); Asaba and Benin City in Delta and Edo states (south-south zone of Nigeria) on 5 November 2021, 8 September 2021; 20 October 2021; 5-8 February 2022 respectively.

82 IPs 70-75, parents of circumcised girls interviewed at Jos, Lafia and Ilorin in Plateau, Nasarawa and Kwara states respectively (north-central zone of Nigeria) on 17 September 2021; 20 September 2021 and 20 October 2021.

83 Interview conducted by the author with healthcare providers and nurses between August and October 2021 at Awka in Anambra state, Ilorin in Kwara state, Katsina in Katsina state and Bauchi in Bauchi state respectively (south-east, north-central and north-east zones of Nigeria).

84 IP 70, a mother to a circumcised girl interviewed at Ilorin in Kwara state (north-central) on 20 October 2021.

85 Amnesty International 'Female genital mutilation – A human rights information pack', <http://www.amnesty.org/ailib/intcam/femgen/fgm1.htm>. (accessed 20 December 2021).

hold together the two sides of the labia majora of the girl/victim. Among the tools listed also include a 'kitchen knife and sharp fingernail'.⁸⁶

Some participants' views on the violation of right to dignity, harm, cruelty, torture and degrading treatment on the practice of FGM in the interviews conducted by the author are the following:

IP 19 says:⁸⁷

In my opinion and belief, it has no relation with religion, although it is a tradition and cultural practice, but I am aware in my community that some preachers such as *Imam* and Pastor do mention female genital mutilation several times that the practice is risky and warned parents of not disabling their children, but the people did not listen to the preachers and this is wrong.

IP 25 says: 'Yes, there is a bit of discomfort and small bleeding. The child may have a bit of urinary discomfort but not much.'⁸⁸ IP 72, a mother to a mutilated girl child, said earlier that 'I observed that she bleeds for some days after the excision'. IP 39, a mother to an uncircumcised child lamented thus: 'In my community, the practice is done by traditional birth attendants and there is a woman that is doing it. In my opinion, this is not good and I do not like it because it is harming.'⁸⁹

Instructively, the right to dignity can be expressed within the context of equality and non-discrimination. Thus, FGM is argued to be a form of discrimination based on 'sex, gender and age'.⁹⁰ Equality and non-discrimination underscore the notion that 'all persons are equal irrespective of their standing in life and are entitled to the same set of rights'.⁹¹ Scholars such as Rawls posited that 'sexual right of men and women must be equal as this right is a social right that deserves to be enjoyed to the fullest'.⁹² Therefore, the mutilation of the female

86 Office of the High Commissioner for Human Rights, Harmful Traditional Practices Affecting the Health of Women and Children Fact Sheet 23.

87 IP 19, district head who is a pharmacist by profession interviewed at Kano (north-west zone of Nigeria) on 10 January 2022 (my emphasis).

88 IP 25, a circumciser interviewed at Lokoja (north-central zone of Nigeria) on 10 December 2021.

89 IP 35, mother to uncircumcised child at Owerri in Imo state (south-east zone of Nigeria) on 30 July 2021.

90 See UN Joint Committee on the Elimination of Discrimination Against Women, General Comment 31 and the Committee on the Rights of the Child on harmful practices, General Comment 18, paras 7 and 15, 2014.

91 D Moeckli 'Equality and non-discrimination' in D Moeckli and others (eds) *International human rights law* (2014) 157 160.

92 J Rawls *A theory of justice* Cambridge (1971).

genitalia violates the rights to sexual fulfilment and corporeal integrity of women as the practice involves tampering with their clitoris during the procedure.⁹³ The author's fieldwork also aligns with this position when IPs 16-20,⁹⁴ IPs 46-50⁹⁵ and IPs 70-75⁹⁶ acknowledged the fulfilment and pleasure that men enjoyed over women in sexuality. Those participants also acknowledged that the reduction of full sexual enjoyment by women is due to the genital mutilation and is very discriminating.

In the context of this chapter, conceptualising reproductive health rights includes 'a state of complete physical, mental and social well-being of women and children'. According to the International Conference and Population Development (ICPD) 'reproductive health is not merely the absence of disease or infirmity, but in all matters related to reproductive system and to its functions and processes'. The Nigerian Federal Ministry of Health confirmed this conceptualisation when it goes further to state that 'reproductive health rights centered on human needs and development throughout the entire life cycle, that is from the womb to the tomb'.⁹⁷ According to Atsenuwa and others,⁹⁸ 'reproductive rights are hosts of recognised human rights that have positive implications for the protection of reproductive health'.

This position is re-affirmed in Principle 7.3 of ICPD and the study of Gbadamosi as 'a number of separate human rights that are already recognised in national laws, international laws and international human rights documents and other consensus documents'.⁹⁹ The definition

93 See K Boulware-Miller 'Female circumcision: Challenges to the practice as a human rights violation' (1985) 8 *Harvard Women's Law Journal* 155.

94 IPS 16-20, community and district heads interviewed at Igboho, Ado Ekiti, Akure and Katsina in Oyo, Ekiti, Ondo and Katsina states respectively (south-west and north-central zones of Nigeria) on 15 November, 10 August 2021 and 28 January, 30 January 2022.

95 IPs 46-50, housewives interviewed at Owerri, Ilorin; Lagos; Oyo and Kaduna in Imo, Lagos, Oyo and Kaduna states respectively (south-east, south-west, north-central and north-west zones of Nigeria) on 30 July 2021, 20 October 2021; 5 November 2021; 15 November 2021 and 22 April 2022.

96 IPS 26-30 (n 81).

97 Federal Ministry of Health 'National Reproductive Health Policy and Strategy to Achieve Quality Reproductive and Sexual Health for All Nigerians (2001) Federal Ministry of Health, Nigeria.

98 See A Atsenuwa and others 'Reproductive health and rights education: A compilation of resources' (2004) *Legal Research and Resources Development Centre*.

99 See O Gbadamosi *Reproductive health and rights: African perspectives and legal issues in Nigeria* (2007).

proffered by the WHO on sexual rights is very apt to the context of this chapter when it states that sexual rights include 'the right of all persons, free of coercion, discrimination and violence' and 'respect for bodily integrity', 'decide to be sexually active or not', 'consensual sexual relations' and pursue a satisfying, safe and pleasurable sexual life'.¹⁰⁰

Section 17(3) of the 1999 Constitution only provides for the formulation of policies towards 'ensuring that adequate medical and health facilities are provided' for all Nigerians irrespective of age or gender. However, section 17(3) above is not ordinarily enforceable but when construed within the provision of the African Charter and the African Women's Protocol which have been signed, ratified and domesticated in Nigeria, sexual and reproductive rights are guaranteed. Arguably, this chapter calls for the amendment of the Constitution not only to respect sexual and reproductive health as rights but as fundamental human rights with those rights enforceable under chapter IV of the Constitution. This call for amendment will enhance the implementation of the ratified and domesticated international and regional legal instruments in Nigeria.

Instructively, from all indications, the practice of FGM hindered the realisation and achievement of these two sets of rights in that FGM attempts to reduce the sexual desire of women and at the same time causes complications to the reproductive health of women. The pain and agony that follow the procedure of FGM with the usage of the tools identified as dangerous and harmful hinder the achievement of sexual and reproductive health rights as this process seemingly amounts to torture and inhuman or degrading treatment of women. It also violates the principles of equality and freedom from discrimination enshrined in all the international, regional and domestic legal instruments. Arguably, the practice of FGM does not respect the sexual and reproductive autonomy and dignity of women.

Arguably, the lack of autonomy and voluntary consent of the girl child before undergoing genital mutilation are a gross violation of the rights of such child as the 'best interests of the child' are not duly considered. Instructively, section 1 of Child Rights Act (CRA) emphasises the 'best interests of a child to be of paramount consideration in all actions'.

100 See WHO Expert meeting on sexual and reproductive health rights (2002); WHO 'Declaration of Alma Ata' (2013), http://www.who.int/publications/almaata_declaration_en.pdf (accessed 17 August 2013).

Therefore, the pain, agony and long-term effects of FGM on the girl child cannot be regarded as an action done in the 'best interests of the child' under international best practices. The shield of parental autonomy on which the parents of the child may rely in mutilating their daughters cannot be proportionate to or equated with the 'best interests of the child' principle under the international standard. In support of this argument are the views expressed by IPs 31-38,¹⁰¹ IPs 56-60¹⁰² and IPs 77-80,¹⁰³ that the practice of FGM on the person of the child and the human rights of the child should override the parental autonomy. In particular, IP 63 expressed the following: 'It is necessary and important to prevent a violent crime to be committed against girl child. I have seen the damage that FGM does to girls and women. I do not give a damn about what could have been the justifications because mutilation is against fundamental human right of a child.'¹⁰⁴

It therefore is abnormal to hold that because of retaining a girl's virginity, morality, faithfulness, and pre- and extra-marital sexual activities, she should be mutilated, violating her right to dignity.

Studies and reports abound that the age at which the mutilation is mostly carried out is between 0 and 14 years. This tender age of the child is a period where the child is more vulnerable because her consent can never be sought and obtained. IP 76 confirms the age at which FGM is carried out when he said: 'The cutting is majorly performed on a girl child between the day she is born till around 14 years of age. I have circumcised a day born girl child and I have operated girls of 5 to 10 years of age.'

Instructively, the questions that readily come to mind are: Who owns the right to be mutilated? Is the right to mutilate that of the girl child/

101 IPs 31-38, pastors/Christian clergies interviewed between October and December 2021 at Okene in Kogi state, Lagos in Lagos State, Enugu in Enugu state respectively.

102 IPS 56-60, legal practitioners who doubled as law makers interviewed at Yenagoa in Baysa state, Ilorin in Kwara state and Ibadan in Oyo state (south-south, north-central and south-west zones of Nigeria) on 17 June 2022, 20 October 2021 and 15 November 2021 respectively.

103 IPS 77-80, husbands to uncircumcised women interviewed at Sokoto, Kaduna, Port Harcourt and Gombe in Sokoto, Kaduna, Rivers and Gombe states respectively (north-west, south-south and north-east zones of Nigeria) on 20 May 2022, 25 April 2022 and 28 December 2021.

104 IP 63, undergraduate student interviewed at Port Harcourt in Rivers state (south-south zone of Nigeria) on 28 December 2021.

victim, parents or that of the man that will marry the girl in future? The answer from the author's perspective is that the right should be that of the child since the act is performed on her person/body. This position gains credence from the postulation of Salmon when she opined that 'FGM violates the rights of the women on whom it is performed'.¹⁰⁵

In other words, FGM is a procedure that violates the principle of justice and autonomy of the child because it mutilates the body of the child to carry out social or patriarchal culture/tradition. The act is also performed on the body of the girl without her consent and even forcibly.¹⁰⁶ The author further sees this violation as a breach of Rule 19 of the Rules of Professional Conduct for Medical and Dental Practitioners in Nigeria, even if FGM is medicalised. Arguably, protecting the dignity of the child will be more of paramount consideration than the act of mutilation.

Similarly, a lack of implementation of the National Health and Strategy adopted in 1988 and 1998, the Policy on Population and Development, Unity, Progress and Self Reliance, 1988, Maternal and Child Health Policy, 1994, National Adolescent Health Policy 1995, National Policy on HIV/AIDS/STIs Control, 1997, National Policy on the Elimination of Female Genital Mutilation, 1998, among other policies, to improve access to basic health services which include reproductive services for all Nigerians irrespective of age or gender complicated the realisation of sexual and reproductive health rights. These rights could have been strengthened had the policies been effective. Furthermore, the medicalisation of FGM is not helpful as studies abound that the Nigerian health system is 'weak and plagued with poor coordination, insufficient resources, inadequate and decaying infrastructure and non-trained healthcare providers',¹⁰⁷ among other factors.

According to section 17(2)(a) of the 1999 Constitution, the 'equality of rights, obligations and opportunities before the law' of all Nigerian citizens is assured. However, the right to equality enshrined in chapter II of the Constitution is not ordinarily enforceable but an implied enforceability can be construed when section 42 of the Constitution

105 MH Salmon 'Ethical considerations in anthropology and archaeology, or relativism and justice for all' (1997) *Journal of Anthropology Research* 47.

106 See TL Beauchamp & JF Childress *Principles of biomedical ethics* (2019).

107 See Population Council 'Understanding Medicalization FGM/C' (2018).

dealing with freedom from discrimination is read together. More importantly, when relying on articles 2, 3, 18 and 19 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (African Charter Act) 1983 domesticated in Nigeria as Cap A9, Laws of the Federation of Nigeria, 2004. For emphasis, article 2 provides:

Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3 guarantees equality before the law and equal protection of the law to every Nigerian citizen while article 18 guarantees the 'protection of rights of woman and child'. Article 19 provides for 'equality' of all persons and that all persons are entitled to the 'same respect' and 'same rights'. Equality therefore is reinforcing the treatment of people equally by taking into consideration their situations and background in life. Under the social protection and human rights principle, equality aims at remedying 'social norms and power dynamics that contribute to inequality and the discrimination of disadvantaged or vulnerable persons in society'.¹⁰⁸

In the same vein, the Nigerian government's response to the eradication of FGM was re-emphasised with the enactment of the Violence against Persons (Prohibition) (VAPP) Act in 2015. Going through the VAPP Act, its provisions generally refer to violence against women and children, except its section 6 which simply provides that 'circumcision or genital mutilation of a girl or woman is prohibited'. However, sections 6(2), (3) and (4) provide for punishments for those who 'perform', 'attempt' or 'aid' the performance of FGM.

However, the VAPP is bedevilled with some challenges with respect to its implementation. The Act is not explicit enough to address those that are relying on culture and religion for the continuance of the practice compared with most African countries, especially the Prohibition of Female Genital Mutilation Act, 2010 of Uganda. Section 10 of the Ugandan Act frowns on any person who raises the defence of culture and religion to perpetrate the act of FGM.

108 Social Protection and Human Rights 'Equality and non-discrimination', <http://socialprotection-humanrights.org/framework/principles/equality-and-non-discrimination/> (accessed 20 December 2021).

This therefore calls for the amendment of the VAPP Act to align with the international standard especially in relation to FGM. According to section 12 of the Constitution of the Federal Republic of Nigeria, 1999, the domestication of any international or regional legal instrument will only be complied with if such instrument falls within the exclusive competence of the National Assembly.¹⁰⁹ However, an instrument domesticated by virtue of section 12 of the Constitution that falls within the 'concurrent legislative' competence will only be binding on the 36 states if it is approved by a simple majority of all the states or if, in the alternative, an interested state passes its own version with or without making reference to the federal statute.

Therefore, the VAPP Act being a federal enactment is only binding at the federal capital territory, Abuja. It can only be binding if all 36 states enact or approve its operation by a simple majority. Unfortunately, eight out of the 36 states are yet to domesticate the VAPP Act into law, and out of the 28 states that have domesticated it, VAPP law has not been assented to by seven states.¹¹⁰ Ekiti and Lagos states have enacted the Protection Against Domestic Violence Law of Lagos state in 2007 while Ekiti state passed the Violence (Prohibition) Amendment Law in 2019 to add up to the 28 states.

Another legal instrument regulating the practice of FGM is the National Policy and Plan of Action for the Elimination of FGM in Nigeria 2013-2017. The Policy has as its core objectives to (i) reduce the prevalence of female genital mutilation in Nigeria; (ii) promote community behavioural change initiatives towards elimination of FGM in Nigeria; (iii) establish a legal framework for the elimination of FGM at national and state levels; and (iv) strengthen system for research, monitoring and evaluation towards the elimination of FGM. It provides for institutional structure at the federal, state, and local government levels for implementation.

However, despite these initiatives, the issue remains that the practice of FGM remains prevalent in Nigeria. The question remains as to whether a lack of implementation of the laws and policy can be

109 See, generally, Parts I, II and III of Second Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

110 See VAPP TRACKER-Partners West Africa Nigeria, <https://www.partnersnigeria.org> (accessed 1 June 2022). VAPP Law is yet to be assented to in Adamawa, Bayelsa, Ekiti, Kebbi, Kogi, Plateau and Rivers States.

attributed to a lack of political will, or whether the decriminalisation of FGM is what is needed to completely eradicate FGM in Nigeria. In answering this question, IPs 56-60¹¹¹ and IPs 77-80¹¹² hold the view that the VAPP Act should be accompanied by some measures to influence the cultural and religious beliefs of the people and their expectations, otherwise the law will be ineffective. IP 33 has this to say: 'There must be continued programmatic efforts by the government to refine the design of the legislative reform including adjustment of the legislative strategies to reflect evolving degrees of social security for the key actors of FGM in Nigeria.' IPs 46-48 lamented that FGM is still in practice in their communities, and this is attributed to a lack of awareness of the law prohibiting it.¹¹³ The view of IP 68 goes further by asserting this unawareness of the law when she said: 'FGM cannot be eradicated easily like that because it is practised in secret compared with that of boys in my community. So, because the practice is usually hidden, it is very difficult to sensitise the actors.'¹¹⁴

IP 45 is of the following opinion:¹¹⁵

Culture and religious beliefs for practising FGM could be circumvented and awareness of the law prohibiting the practice can challenge the culture and tradition status quo by providing legitimacy to new behaviours. I believe that people will change their behaviour when they understand the hazards of the practice and reason why the law eradicating it was passed. Understanding the reason behind FGM and moving towards constructive dialogue on the reason why the law is prohibiting it will make people to giving up this aspect of their culture and discontinue the practice.

IP 12 proffers the following suggestion:¹¹⁶

There is no way to get FGM eradicated without putting law in place. Those favouring eradication must be legally justified. So, we need the law. But the problem is the ambiguity of the extant law. VAPP Act is not that explicit to

111 n 101.

112 n 102.

113 IPS 46-48, housewives interviewed at Owerri, Lagos, Ilorin, Oyo and Kaduna states (south-east, south-west, north-central and north-west zones of Nigeria) on 30 July 2021, 5 November 2021, 10 October 2021, 15 November 2021 and 22 April 2022.

114 IP 68, a circumcised businesswoman interviewed at Makurdi in Benue state (north-central zone of Nigeria) on 20 May 2022.

115 IP 45, mother to uncircumcised girl child interviewed at Abuja in Federal Capital Territory (north-central zone of Nigeria) on 15 June 2022.

116 IP 12, a gynecologist and obstetrician by profession interviewed at Osogbo in Osun state (south-west zone of Nigeria) on 10 June 2022.

justify the advocacy for the eradication based on reproductive health rights. Let us remember that all the policies formulated cannot be enforced like the Act. Government should endeavour to amend VAPP Act to be more elaborate. In so doing, women must be given a voice in the proposed amendment, the applicability and implementation.

The religious leaders such as *Imams*, pastors and even the Ifa priests should be educated to add the advocacy on eradication of FGM into the marriage curriculum and counselling so that the FGM will be killed from the inception of marriage.¹¹⁷

Instructively, therefore, the implementation of VAPP Act has been hindered due to non-domestication by all 36 states of the federation. However, no diligent personnel have been recruited to man the institutions established for the purposes of prosecution, education and advocating the eradication of FGM in Nigeria. A paucity of funds by the Nigerian government to execute the project designed for eradication of FGM is another challenge.

5 Discussion of findings

The findings in this study reveal the prevalence of FGM to date. The study provides evidence through literature review and the views of the interview participants, especially IPs 51-55 and IP 76, who expressed the way in which they normally carry out the mutilation/excision. There is a general belief from the study that FGM is a cultural and religious practice and this belief has dominated the engagements of people in all the communities where FGM is being practised. The reviewed literature and the interviewed participants confirm this position by adducing reasons why FGM remains prevalent. From the findings of the study, it is clear that the operators of FGM in Nigeria have no regard for the law as they believe more in their culture and religion for the continuation of the practice and ignore the cry of the law for the criminalisation of the practice based on its human rights violation.

However, some interviewed respondents have acknowledged the health challenges that surround the practice of FGM and are ready to eradicate it based on its human rights violations. The stands taken by IP 12 above show that when people are educated about the health hazards

117 As above.

of FGM, they could attach greater importance to tackling the reality of the menace of reproductive health rights caused by FGM instead of being inclined to follow culture and religion in perpetrating the harmful practice.

Thus, the available literature and the findings in the field work also suggest that the tools used for the procedure of genital mutilation are very frightening and as such can ordinarily cause injury or harm to the person of the victim. These findings were advanced in favour of eradicating FGM in Nigeria. Remarkably, this standpoint is canvassed by IPs 19, 72 and 76 in their responses expressed earlier during the interviews that FGM is 'risky, can disable women, causes discomfort, bleedings and urinary infections'.

The findings further reveal that the Nigerian government has made several efforts in acknowledging the adverse effects of FGM. In so doing, the study reveals that FGM becomes an offence or crime especially by virtue of section 6 of the VAPP Act, 2015. This is the legislation that specifically distilled FGM as an offence punishable under the law. Interestingly, there are some provisions in the Nigerian Constitution, 1999 that enjoin any aggrieved party to institute an action on a crime committed against the right to dignity, non-discrimination and right to reproductive health as examined in this chapter.

Despite the criminalisation of FGM, studies have shown that the practice remains prevalent. The findings reveal a lack of awareness of the law, inhibiting its ineffectiveness. As expressed by all the interviewed respondents, there should be legislation for the eradication of FGM, but people need to be educated that the hazards caused by FGM are more than the benefits envisaged under culture and religious beliefs. They also hold that the education of people for the eradication of FGM must be seen from a health rights perspective. Clamouring of reproductive health rights will convince people to give up these aspects of culture and religion and turn a new leaf. The view expressed by IP 12 is very apt.

The findings have enumerated measures in which criminalisation of FGM can be enforced. Among the suggested measures revealed in this study include interaction between several legal, social and political forces. The law in this regard cannot operate in isolation, but needs the support of societal factors to be effective. This is especially true for a phenomenon with heavy socio-cultural inclinations. The views that have been expressed during empirical engagement in this study show the need

for massive support of sociological factors to bring about the efficacy of criminal sanctions. The views expressed by IPs 13, 56-60 and 77-80 above are apt in this regard.

6 Conclusion

The research questions have been answered from the findings of this chapter. First, the author can analyse the effects of FGM and reasons why the law criminalising the practice is not effective. Second, the chapter proffers recommendations by aligning to the responses adduced. The chapter construes FGM from ethical relativism as against culture and religion because of the evaluation of the two standpoints (FGM/culture/religions versus law). This is to arrive at a logical conclusion that for Nigeria to achieve and realise its Sustainable Development Goal 5.3 on 'elimination of all harmful practices' including FGM, some aspects of culture and religion need to be forgone, especially FGM which hinders the reproductive health rights.

Suggestions of the interviewed respondents as to 'political will', creating 'awareness', 'amendment of the VAPP Act/Law' and 'education' with 'counselling' during marriage rites if adopted will bring FGM to an end. Overall, the chapter concluded that the enactment of the VAPP Act/Law or criminalising FGM is regarded as critical to effect a change of societal attitudes towards FGM. Law alone cannot change the hearts and minds of people on FGM but the socio-legal approach to supplement the law with advocacy, political will, educational curricula, and participation of gate keepers of FGM in the proposed amendment of the laws suggested in this chapter can only be a good strategy in eradicating FGM in Nigeria.

Bibliography

- Adelakan, B and others 'Female genital mutilation and sexual behaviour by marital status among a nationally representative sample of Nigerian women' (2022) 19 *Reproductive Health Journal* <https://www.reproductive-health-journal.biomedcentral.com>
- Agnew, R 'The nature and determinants of strain' in Passas, N & Agnew, R *The future of anomie theory* (Northeastern University Press 1997)
- Ahmed, HM and others 'Knowledge and perspectives of female genital cutting among the local religious leaders in Erbil Governorate, Iraqi Kurdistan region' (2018) 15 *Journal of Reproductive Health* 44
- Ajere, O 'Predisposing factors and attitudes towards sex work by commercial sex workers in Nigeria' unpublished MEd dissertation, University of Ilorin, 1998
- Amnesty International 'Female genital mutilation – A human rights information pack' <http://www.amnesty.org/ailib/intcam/femgen/fgm1.htm>
- Atsenuwa, A and others 'Reproductive health and rights education: A compilation of resources' (2004) *Legal Research and Resources Development Centre* p 12
- Baba Lee quoted in Savell, KL 'Wresting with contradictions: Human rights and traditional practices affecting women' (1996) 41 *McGILL Law Journal* p 781
- Baron, EM & Denmark, FL *An exploration of female genital mutilation* (2006)
- Boulware-Miller, K 'Female circumcision: Challenges to the practice as a human rights violation' (1985) 8 *Harvard Women's Law Journal* p 155
- Bourdieu, P 'Structures, habitus, power: Basis for a theory of symbolic power' in Dirks, N (ed) *Culture/Power/History* (1994) A Reader in Contemporary Social Theory
- Carr, D *Female genital cutting: Findings from the demographic health survey programme* (Macro International 1997)
- Cassman, R 'Fighting to make the cut: Female genital cutting studied within the context of cultural relativism' (2007) 6 *Northwestern Journal of International Human Rights* 128 citing Gillia, BA 'Female genital mutilation: A form of persecution' (1997) 27 *New Mexico Law Review* p 579
- Durojaye, E & Nabaneh, S 'Addressing female genital cutting/mutilation (FGC/M) in The Gambia: Beyond criminalisation' in Durojaye, E, Mirugi-Mukundi, G & Ngwena, C (eds) *Advancing sexual and reproductive health and rights in Africa: Constraints and opportunities* (Routledge 2021) p 118
- Enikomeyi, AC *Development and conflict of laws* (Braithwaite Publishers 1990)

- Esere, MO 'A cross-ethnic study of the attitude of married women towards female genital mutilation' (2003) 1 *Gender Discourse* citing Owumi, BE 'A socio-cultural analysis of female circumcision among the Urhobos of Delta' (2003) 2 *Your Task Health Magazine* p 8
- Fran, H 'The Hosken Report: Genital and sexual mutilation of females' (*Women's International Network News* 1993)
- Gbadamosi, O *Reproductive health and rights: African perspectives and legal issues in Nigeria* (Ethiopia Publishing Corporation 2007)
- Gomaa, A 'The Islamic view on female circumcision' (2012) *African Journal of Urology*, <https://www.ees.elsevier.com/afju>
- Gruenbaum, E *The female circumcision controversy: An anthropological perspective* (University of Pennsylvania Press 2001)
- Hayford, SR & Trinitapoli, J 'Religious differences in female genital cutting: A case study from Burkina Faso' (2011) 50 *Journal of Science Study and Religion* p 252
- Imad-ad-Dean, A 'FGM: An Islamic perspective', <http://www.minaret.org/fgm-pamphlet.htm>
- Kandala, NB and others 'Female genital mutilation/cutting in Nigeria: Is the practice declining? A descriptive analysis of successive demographic and health surveys and multiple indicator cluster surveys (2003-2017)' *Evidence to end FGM/C: Research to help girls and women thrive* (2020), <https://www.popcouncil.org>
- Levičev, V 'The synthesis of comparative and socio-legal research as the essential prerequisite to reveal the interaction of national legal systems', <http://www.tf.vu.it/en/science/researchers-conference-2015/researchers-conference-2013>
- Moeckli, D 'Equality and non-discrimination' in Moeckli, D and others (eds) *International human rights law* (OUP 2014)
- Oba, AA 'Female circumcision as female genital mutilation: Human rights or cultural imperialism?' (2008) 8 (3) (Frontiers), *Global Jurist*, Article 8. <http://www.bepress.com/gj/vol8/iss3/art8>
- Obianyo, N 'Harmful traditional practices that affect the well-being of women' (1997) 1 *New Impact* p 16
- Obiora, OL and others 'Experiences of young women who underwent female genital mutilation/cutting' (2020) *Journal of Clinical Nursing* <https://www.onlinelibrary.wiley.com/doi.org/10.1111/jocn.15436>
- Odimegwu, CO & Okemgbo, CN 'Female circumcision and sexual activity: Any relationship?' (2000) 1 *UNILAG Sociological Review* p 159

- Owumi, BE 'A socio-cultural analysis of female circumcision among the Urhobos of Delta (2003) 2 *Your Task Health Magazine* p 8
- Parker, C 'Circumcision and human rights discourse' in Nnaemeka, O & Ezeilo, J (eds) *Engendering human rights: Culture and socio-economic realities in Africa* (2005) p 257
- Perry, MJ 'Are human rights universal? The relativist challenge and related matters' (1997) 19 *Human Rights Quarterly* p 466
- Rahman, A & Toubia, N *Female genital mutilation: A guide to laws and policies worldwide* (Zed Books 2000)
- Rawls, J *A theory of justice* (Cambridge 1971)
- Salmon, MH 'Ethical considerations in anthropology and archaeology, or relativism and justice for all' (1997) *Journal of Anthropology Research* p 47
- Sami Aldeeb Abu-Sahlieh, A 'To mutilate in the name of Jehovah or Allah: Legitimization of male and female circumcision (1994) 13 *Medicine and Law* p 575
- Shell-Duncan, B and others 'A state-of-the art synthesis of female genital mutilation/cutting: What do we know?' Evidence to end FGM/C: Research to help women thrive the year? Volume New York Population Council, <http://www.popcouncil.org/EvidencetoEndFGM-C>
- Tangwa, GB 'Circumcision: An African point of view' in Danniston, GC, Hodges, FM & Milos, MF (eds) *Male and female circumcision: Medical, legal and ethical considerations in pediatric practice* (Springer 2022), <https://www.springer.com>
- Utz-Billing, I & Kentenich, H 'Female genital mutilation: An injury, physical and mental harm' (2008) 29 *Journal of Psychosomatic Obstetrics & Gynecology*, <https://doi.org/10.1080/01674820802547087>
- Yoder, PS & Wang, S 'Female genital cutting: The interpretation of recent DHS data' (2013) *Calverton, MD: ICF International* p 39
- Yusuf, BL 'Female circumcision: The Islamic perspective' (2005) 1 *AT-TABIB (The Annual Magazine of the Association of Muslim Health Students, College of Medicine, University of Ilorin)* p 30