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DEVELOPING HOME-GROWN APPROACHES IN ERADICATING FEMALE GENITAL MUTILATION ACROSS COMMUNITIES IN AFRICA

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Abstract

As the world became more enlightened, it became clearer that female genital mutilation is a practice that should be done away with globally. In contemporary society, the practice of FGM not only violates the sexual and reproductive rights of women, but it also creates health-related complications. This age-long practice has been widely condemned as uncivilised both at national and international levels. Globally, there have been several attempts deployed at tackling FGM using human right instruments. Unfortunately, despite global governance and the most recent efforts at criminalising the practice, it has persisted. While the lingering practice underscores the relevance and impact of culture on crime, it is equally indicative that whatever a society regards as criminal is an act that not only threatens it but also presents the possibility of harming its fabrics and social existence, causing that society to declare such act a menace, as well as an injury to its organised well-being. In examining the perspective, prevalence and origin of FGM and its criminalisation, this chapter argues that it is insufficient for states and governments to declare an act of cultural origin such as FGM criminal since criminal law is embedded in its socio-cultural and religious acceptability. A single universal method

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possibly will be inefficient in eradicating FGM simply because the purpose of FGM differs for each clime, community, and culture. Until local mechanisms peculiar to each society and culture are fashioned into a bottom-up approach aimed at the eradication of FGM, and promote positive social change, the practice, which has remained malignant, may be with us for a very long time.

1 Introduction

Female Genital Mutilation (FGM), also known by other names such as Female Genital Cutting or female circumcision, is an ongoing practice in many countries around the world, particularly across parts of Africa, the Middle East and South Asia. Many girls and women living today have been victims of one or other form of FGM/C, and millions more are annually being affected. FGM is an issue that has been on the front burner of discussion in the international scene for a long time, a frightening portrait that is not only uncalled for and insensitive, but also an invasion of women's dignity.

The need to dimension this concept and put it in the right perspective, the various angles and arguments regarding it, therefore, cannot be discountenanced. While, despite several combative efforts, FGM remains a vibrant practice across the several jurisdictions that still actively engage in it, the dimension of human rights, and the criminalisation of the act, therefore, present us with an edge-of-the-seat discussion. Undeniably, criminalisation has presented several challenges that made its effectiveness low.

This chapter therefore examines the underlining issues militating against the effectiveness of previous approaches. It begins by presenting the various perspectives of FGM, its prevalence and the spread of the practice. It further discusses some of the various approaches that have been engaged globally in times past and proceeds with the discussion on the reasons some of the previous approaches remain ineffective, and the dynamics serving as constrains to the effectiveness of previous approaches. The chapter concludes by discussing and recommending the use of the home-grown bottom-up approach whereby a specifically designed approach is derived from within each community to meet the needs of such community.

2 Perspectives on FGM

FGM is a procedure where there is the total or partial removal of the external female genitalia or other forms of injuries to the female genital organs for non-medical reasons.[1] The use of the word 'mutilation' in describing or defining this procedure is rather contestable and will be addressed later in the chapter. Traditionally, the procedure is mostly carried out by traditional practitioners. However, there are modern trends in which healthcare givers are now performing FGM, since it is erroneously believed that medicalising the procedure will make the procedure safer.

While the precise origin of this practice is unclear, there have been several suggestions by scholars, based on the discovery of some circumcised mummies from the fifth century, that it originated from ancient Egypt (that is, the present-day Sudan and Egypt). Others scholars hold that FGM spread across the routes where slave trade was trending, cutting across the geographies of the Western shore of the Red Sea across the Southern and West African regions, and Middle Africa through the Arab traders.[2] In ancient Rome, slaves were also genitally cut to deter them from any form of sexual relations that can result in pregnancy.[3] There is yet another theory to the fact that the practice originated from multiple sources.[4]

The World Health Organization (WHO) classified FGM into four categories. The first type is the partial or total removal of the clitoris and/or the prepuce; the second is the partial or total removal of the labia minora; the third is the narrowing of the vaginal orifice; while the fourth includes all other harmful procedures carried out on female genitalia for non-medical purposes.[5] In interrogating the classification, the question arises as to whether there should be any reason for the alteration of the female reproductive organ aside from medical reasons. The answer is to

1 World Health Organisation 'Female genital mutilation', https://www.who.int/health-topics/female-genital-mutilation#tab=tab_1 (accessed 19 May 2022).
2 A Andro & M Lesclingand 'Female genital mutilation: Overview and current knowledge' (2016) 71 *Population* 217. See also CT Ross and others 'The origins and maintenance of female genital modification across Africa' (2016) 27 *Human Nature* 173.
3 Andro & Lesclingand (n 2).
4 Ross and others (n 2).
5 World Health Organisation (n 1).

be found in looking at the purpose for which FGM is carried out. The purposes and function for which FGM is done vary: The first identified purpose for which the practice is carried out is for the reduction of the predisposition of women to pre-marital sexual behaviour and exposure, that is, it protects the concept of 'virginity', 'purity' and 'sexual restraint' which is a prized virtue in the cultural society.[6] A second perceived purpose or function is for 'cultural identity' and transition to adulthood.

In some societies the practice of FGM is a rite of passage that ushers in an individual from girlhood into womanhood.[7] Most parents will be fearful that their families or daughters would be ostracised from society if they fail to perform FGM,[8] for example, the Maasai communities in Magadi and Oloitkitok sub-counties in Kenya.[9] Similarly, in Kenya some communities believe that circumcision is a rebirth and a community of women who have undergone FGM are named *Kipsigis when translated means 'we the circumcised'*.[10]

Additionally, it is also held that FGM serves to protect the health of girls and women and their unborn children. Some believe that FGM improves women's hygiene and increases her likelihood of falling pregnant.[11] In fact, some hold the belief that the baby's head touching the clitoris of his or her mother during childbirth may lead to the death of such baby. Another reason adduced is to ensure that the woman remains chaste after marriage, as well as to prevent rape and enhance aesthetic appeal and providing a source of income for circumcisers.[12]

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6 J Llamas 'Female circumcision: The history, the current prevalence and the approach to a patient' (2017) 1-7, https://med.virginia.edu/family-medicine/wp-content/uploads/sites/285/2017/01/Llamas-Paper.pdf (accessed 19 May 2022).

7 As above.

8 NM Nour 'Female genital cutting: A persisting practice' (2008) 3 *Reviews in Obstetrics and Gynecology* 135-139.

9 S Muhula and others 'The impact of community led alternative rite of passage on eradication of female genital mutilation/cutting in Kajiado county, Kenya: A quasi-experimental study' (2021), https://doi.org/10.1371/journal.pone.0249662 (accessed 19 May 2022).

10 Llamas (n 6) 2.

11 As above.

12 J Abdulcadir & M Rodriguez 'A systematic review of the evidence on clitoral reconstruction after female genital mutilation/cutting' (2015) 129 *International Journal of Gynecology and Obstetrics* 93-97; B Vissandjée and others 'Female genital cutting (FGC) and the ethics of care: Community engagement and cultural sensitivity at the interface of migration experiences' (2014) 14 *BMC International Health and Human Rights*. See also BD Williams-Breault 'Eradicating female genital mutilation/cutting: Human rights-based approaches of legislation,

On aggregate, there is substantial cultural justification for FGM as the practice is immensely rooted in culture and its continuation is also reinforced and deep-rooted in tradition. Culturally FGM is considered part of the essentials of raising a girl child and preparing her for marriage, adulthood and childbirth. The result of research carried out by Berg and Denison, using three stakeholder groups of persons exiled from communities where FGM is being practised, healthcare workers and government officials, indicates that six factors are largely responsible for the continuation of the practice. These include cultural tradition; the interconnected factors; sexual morals and marriageability; religion; health benefits; and male sexual enjoyment.[13]

According to them, there is an intricate web of cultural socio-religious and medical pretext for the continual existence of FGM. The practice of FGM as carried out across jurisdictions in Africa aligns with the classification according to the WHO which essentially sums up the entire practice as alteration either through remodelling and or cutting the female genitals.

It is interesting to note that in the Western culture in the late nineteenth century, the reasons why FGM was carried out was to regulate certain sexual practices, especially female masturbation hysteria, lesbianism, and clitoral enlargement.[14] According to Rodriguez, the practice of FGM in the West was basically to control female sexuality.[15]

With the advancement in knowledge and modern medicine, however, several beliefs on the purpose for carrying out FGM have been ousted due to increased human rights awareness and advocacy. Internationally, FGM has been described as an affront on the human rights of girls and women, violating girls' and women's sexual and reproductive rights, their rights to dignity, to choose, against discrimination, and their rights to be free from torture, cruel, inhuman and degrading treatment. It mirrors a

education, and community empowerment' (2018) 20 *Health and Human Rights* 223-233.

13 RC Berg, E Denison & A Fretheim 'Factors promoting and hindering the practice of female genital mutilation/cutting (FGM/C)' (2010) Oslo, Norway: Knowledge Centre for the Health Services at the Norwegian Institute of Public Health (NIPH) Report from Norwegian Knowledge Centre.

14 Nour (n 8); see also Andro & Lesclingand (n 2).

15 SW Rodriguez 'Rethinking the history of female circumcision and clitoridectomy: American medicine and female sexuality in the late nineteenth century' (2008) 63 *Journal of the History of Medicine and Allied Sciences* 323-347.

deep-seated sex inequality. Should death ensue from FGM, it obviously violates girls' and women's rights to life.

Modern medicine and science have revealed that FGM has no derivable health benefits. Rather, it only leads to health risks, either in the immediate or the remote future, as complications can always arise in the immediate and/or long term. These consequences and risks range from haemorrhage; acute anaemia; infections (such as tetanus); repetitive low urinary tract infections; infections of urethral mucus and/or cystitis; septicaemia; vulvovaginitis with or without leucorrhoea; abnormal scarring (such as fibrosis, cheloids, synechia, tissue rotation); and organic dyspareunia which is a gynecological complication characterised by pains during sexual intercourse due to the cutting or mutilation of the genitals.[16]

The perspectives and attitudes of women and girls equally have changed over time, but there is still a pool of women who perceive no evil in the practice and think that FGM should continue. According to a report of the United Nations Children's Fund (UNICEF), the highjest degree of support can be found in countries such as Mali, The Gambia, Sierra Leone, Guinea, Egypt and Somalia. In these countries, over half of the female population are of the opinion that FGM should continue.[17] However, there has been progress in some other countries in Africa and the Middle East where the majority of females are of the opinion that the practice should be discontinued.[18]

3 Prevalence and spread of female genital mutilation

It is estimated that over 200 million women and girls have been victims of FGM across the globe, especially in countries where FGM is concerted.[19] From data available, FGM spread across many countries around the globe. There is a high concentration of the practice in 'a swath of countries from

16 A Kaplan and others 'Health consequences of female genital mutilation/cutting in The Gambia: Evidence into action' (2011) 8 *Reproductive Health* https://doi.org/10.1186/1742-4755-8-26 (accessed 20 May 2022).

17 UNICEF 'Female genital mutilation' (2022) https://data.unicef.org/topic/child-protection/female-genital-mutilation/ (accessed 20 May 2022).

18 As above.

19 As above.

the Atlantic coast to the Horn of Africa, in areas of the Middle East'.[20] It appears encouraging that over the last decades, there has been a decline in the practice of FGM in several jurisdictions owing to modern medicine, legislation, health policies, science and human rights advocacy. However, not all countries have achieved this progress, coupled with the fact that the rate of the decline is uneven and the progression is not sufficient to keep up with the growth in population. Hence, if the current trend continues, the number of females who would have suffered FGM will be significantly high over the next 15 years.[21] The majority of the victims were cut before the age of puberty, that is, between the ages of six and 12 years. In some areas, the victims are cut at birth, or at menarche or just before marriage.[22] The procedure is usually carried out by traditional practitioners.[23]

FGM is still prevalent in approximately 29 countries, spanning across parts of Africa, the Middle East and Southeast Asia.[24] The various types of cutting is practised across various countries and cultures. For instance, the first type is common in Ethiopia, Kenya and Eritrea; the second type is found mostly in Western African nations such as Benin, The Gambia, Guinea and Sierra Leone; the third type is found in Northern Sudan, Somalia, Eastern Chad, Southern Egypt, Djibouti (in fact, 80 per cent of the most severe type of this third form is found in Somalia); while the fourth type is found mainly in Northern Nigeria.[25]

From available data,[26] there has been a decline in the percentage of occurrences across various jurisdictions. FGM/C is most prevalent in The Gambia among girls between the ages of 0 to 14 years (46 per cent) while it is most prevalent in Somalia among women and girls between ages 15 and 49 years (99 per cent). In The Gambia, 55 per cent of

20 UNICEF 'Female genital mutilation/cutting: A global concern', https://data.unicef.org/wp-content/uploads/2016/04/FGM/CC-2016-brochure_250.pdf (accessed 20 May 2022).
21 As above.
22 Nour (n 8).
23 World Health Organisation 'Female genital mutilation', https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation (accessed 29 January 2023).
24 Andro & Lesclingand (n 2).
25 E Gruenbaum *The female circumcision controversy: An anthropological perspective* (2001); see also Nour (n 8).
26 E Durojaiye & S Nabaneh *Addressing female genital cutting/mutilation in The Gambia: Beyond criminalisation* (2021).

women reported being circumcised before the age of five; 28 per cent were circumcised between five and nine years of age; 7 per cent between 10 and 14 years of age.[27] In Somalia, types one, two, three and four are prevalent.[28]

4 Approaches at eradicating female genital mutilation/cutting: The human rights-based approach

Human rights are rights inherent to all human being irrespective of their race, nationality, sex, religion, language, ethnicity, or any other status.[29] FGM is a practice that violates several forms of rights of girls and women who are culturally compelled to undergo the procedure. Women's rights are human rights. Therefore, the human rights principle of equality and non-discrimination based on sex, the right to freedom from torture, cruel, inhuman and or degrading treatment or punishment, the right to life (particularly when it results in the death of the victim), and the rights of the child are all violated. FGM also violates the sexual and reproductive rights of women, that is, the rights of women to enjoy complete physical, mental, and social well-being in all matters relating to the reproductive system and to have a satisfying as well as safe sex life,[30] the right to dignity and autonomy.[31]

Attention to correcting this issue was on the forefront during the United Nations (UN) Women's Decade of 1975-1985. There have been several conferences and gatherings calling attention to this human rights violation. In 1995 at the UN Fourth World Conference on Women in Beijing, the wife of the former US President, Hillary Clinton, opined

27 As above.

28 Directorate of National Statistics, Federal Government of Somalia (2020) The Somali Health and Demographic Survey (2020) DNS: Mogadishu, https://www.unicef.org/esa/media/8936/file/Somalia-Case-Study-FGM/C-2021.pdf (accessed 23 May 2022).

29 United Nations 'Human rights', https://www.un.org/en/global-issues/human-rights (accessed 5 September 2022).

30 S Nabaneh & A Muula 'Female genital mutilation/cutting: A complex legal and ethical landscape' (2019) 145 *International Journal of Gynecology and Obstetrics* 253-257; see also E Durojaye & P Sonne 'A holistic approach to addressing female genital cutting (FGC) in Africa: The relevance of the Protocol to the African Charter on the Rights of Women' (2011) *Akungba Law Review* 240.

31 *Schloendorff v Society* of *New York Hospital* 133 NYS 1143 (1912).

that 'it is a violation of human rights when young girls are brutalised by the painful and degrading practice of female genital mutilation'.[32]

There are several international and regional human rights instruments that have been deployed over the years to speak against the practice of FGM either directly or indirectly, by guaranteeing the various rights the practice violates. There is the Universal Declaration of Human Rights (Universal Declaration); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Convention of the Right of the Child (CRC).

In a 2008 interagency statement the UN defines FGM as a violation of human rights and a form of discrimination, based not only on gender and violence against girls, but also because it violates a number of rights guaranteed under the Universal Declaration, CEDAW and CRC. CEDAW is an instrument intended to change the human rights narratives concerning women globally, even though some countries have refused to embrace this instrument.[33]

Sustainable Development Goal (SDG) 5 also addresses this menace, aiming to achieve gender equality and empowerment of all women and girls. Goal 5.3 provides for the elimination of all harmful practices, such as early and forced marriage of children and FGM.

In the same vein, CRC is an instrument aimed at protecting the child as well as enhancing their ability to make decisions that directly affect them, particularly life-changing ones. A major guiding principle of this Convention is the 'the best interests of the child', by which the parents' decision to subject their daughters to this life-changing procedure while believing in its benefits cannot justify the decision as being in the best interests of the child since the procedure is non-reversible. Moreover, CRC specifically guarantees the right of a child against harmful traditional practices such as FGM.

At African regional level, instruments aimed at combating FGM date as far back as the African Charter on the Rights and Welfare of the Child (African Children's Charter) which was adopted by the then

32 M Antonazzo 'Problems with criminalising female genital cutting' (2003) 15 *Peace Review* 471-477.

33 Countries such as Somalia that refuse to sign or ratify this Convention.

Organisation of African Unity (OAU), now the African Union (AU), in 1990. Further, in 2003 the AU also adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa[34] (African Women's Protocol). Article 5 of this Protocol specifically states:

> States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women, and which are contrary to recognised international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including:
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> ...
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> prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them;
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> ...
>
> (c) provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting;
>
> (d) protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse, and intolerance.

The AU also declared the decade 2010 to 2020 the African Women's Decade to assist in promoting gender equality and the eradication of FGM and all other forms of violence against women and girls.[35]

Measures are taken at the sub-regional level to arrest the trends of cross-border FGM/C, wilfully done to avoid prosecution under local domestic laws. In 2016, the East Africa Legislative Assembly comprising Kenya, South Sudan, Tanzania and Uganda enacted the East African Community Prohibition of Female Genital Mutilation Act (EAC Act) to promote cooperation in the prosecution of perpetrators of FGM.[36]

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34 Adopted on 11 July 2003 (African Women's Protocol).

35 African Union, UN Office of the High Commissioner for Human Rights, UN Women (2017) 'Women's Rights in Africa'.

36 DCK Byamuka 'The EAC Prohibition of Female Genital Mutilation Bill' (2016), http://www.eala.org/documents/view/the-eac-prohibition-of-female-genital-mutilation-bill2016; see a similar discussion by the Economic Community of West African States (ECOWAS); Economic Community of West African States 'First ladies move to eliminate obstetric fistula and protect child rights in West Africa' (2017), http://www.ecowas.int/first-ladies-move-to-eliminate-obstetric-fistula-and-protect-child-rights-in-west-africa/ (accessed 5 September 2022).

Some countries have not signed CEDAW and the African Women's Protocol based on their reservations as Islamic nations. This is because some provisions of CEDAW and the Women's Protocol are not in line with Shari'a law. These nations, members of the Organisation of Islamic Co-operation, in 2003 adopted the Cairo Declaration on the Elimination of FGM (CDEFGM). They did so following the Afro-Arab Expert Consultation on Legal Tools for the Prevention of Female Genital Mutilation held in Cairo.[37]

Seventeen recommendations are suggested for governments to follow CDEFGM with the aim of preventing and prohibiting FGM. Encouragingly, CDEFGM was adopted by Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, The Gambia, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Sudan, Tanzania, Togo and Uganda.

The human rights-based approach, which has several benefits, entails the development of suitable action plans and strategies that often require measures beyond legal procedures for adequate implementation. It also requires human rights education and gender sensitisation at all levels of society. The summation at the international level that FGM is a human rights abuse has shaped decisions, laws and attitude of regions and countries and has equally provided remedies for women who have been victims. Further, the human rights-based approach has helped in engaging states in a way that other approaches have not. Most importantly, this approach creates entitlement for rights holders (girls and women) while creating duties for the state.

However, one basic drawback of this approach is its fulfilment. This is because FGM is often performed outside the area of effective enforcement of the law, such as within the family where the perpetrators are private non-state actors or individuals, making human rights implementation difficult or impossible. For effectiveness of the human rights-based approach, there should be massive, intense, consistent and continuing education, which education should be available, accessible, acceptable and adaptable.[38]

37 The National Council for Childhood and Motherhood 'Afro-Arab expert consultation legal tools for the prevention of female genital mutilation: Cairo Declaration for the Elimination of FGM/C' (2003).

38 Adopted by the Committee on Economic, Social and Cultural Rights in General Comment 13 (E/C.12/1999/10). For more information, see www.right-to-

4.1 Criminalisation and legislation

Another approach that has been adopted over time is the use of laws and criminal sanctions as a form of deterrence for the continuance of the practice of FGM. Several countries have imposed sanctions in the form of terms of imprisonment and/or fines for perpetrators of FGM. This approach is premised on the theory of deterrence, that is, the use of penalty as a threat to deter people from wrongdoings. Deterrence proposes that individuals act based on their calculations on the gains and consequences that such action will incur from the law. Hence, the costs that will be incurred by the perpetrators will be a form of deterrence for him or her from engaging in the particular action.[39]

Perpetrators of FGM may be deterred from such practice based on the certainty of the penalty that will attend such actions. The deterrence theory can be traced back to early philosophers such as Thomas Hobbes (1588-1678), Cesare Beccaria (1738-1794) and Jeremy Bentham (1748-1832).

According to Hobbes, deterrence can be general or specific.[40] People within society give up their personal self-interest and enter into a social contract with the government while the government deploys its apparatus to enforce the social contract for the benefit and advancement of society.[41] Hobbes further states that, irrespective of this social contract entered into by the people and the government, crimes may still occur and, as such, punishment for crime must therefore be greater than the benefits derived from committing crime.

Deterrence, therefore, is the reason why offenders are punished for violating the tenets of social contract so as to maintain the agreement between the state and its citizens.[42] In building on Hobbes's idea on deterrence, Beccaria states that since people are rationally self-interested, they will not commit crimes if the cost of committing such crime prevails over the benefits.[43] He states further that the swiftness and certainty

education.org (accessed 5 September 2022).

39 MM Mello & TA Brennan 'Deterrence of medical error: Theory and evidence for malpractice reform' (2002) 80 *Texas Law Review* 1603.

40 F Schmalleger *Criminal justice: Brief introduction* (2003) 406.

41 WG Pogson *Smith Hobbes's Leviathan reprinted from the ed 1651* (1929).

42 As above.

43 C Beccaria *Crimes and punishments* trans H Paolucci (1963) 107 Library of Liberal arts Macmillan library of arts 8.

of punishment are the best means of both preventing and controlling crimes.[44] Bentham, a contemporary of Beccaria, posits that 'nature has placed mankind under the governance of two sovereign masters, pain and pleasure'.[45] He holds that the duty of the state is to promote the happiness of society, both by punishing and rewarding.[46]

Essentially, criminalising FGM is founded on the theory of deterrence which posits that persons are likely to be deterred from doing a wrongful act when there are sanction grids attending the wrongdoings, and the more serious the punishment, the more rational-minded persons will abstain from committing the crime.

According to a study carried out by the Thomas Reuters Foundation, 22 countries have national laws in place penalising the performance of FGM, and the penalties comprise fines and other forms of punishment, including imprisonment. Various countries set out a range of minimum and maximum sanction grids, except for Cameroon, Ghana, Guinea Bissau, Senegal and Uganda. Twenty-two countries with anti-FGM laws apply prison sentences ranging between two months to a maximum of 20 years; the amount paid as fines ranges between US $5,5 and US $3,08. The countries that have the highest amount in fines are Benin, Cote d'Ivoire and Kenya, while the countries imposing the longest maximum number of prison terms are Cameroon (20 years) and Tanzania (15 years). Penalties vary between countries; the countries with the lowest penalties are Ethiopia, Niger, Sudan and Guinea. Separate penalties are set out against aiding and abetting FGM and/or a failure to report the practice, in which case the penalties are usually lower. In instances where the performance of FGM results in the death of the victim, sanctions are increased, and imprisonment may be for life. A good example is Kenya. Some jurisdictions specially profile who the perpetrator is, and the degree of harm caused, of which Uganda is an example.

Enacting laws that criminalise FGM is important as 'it can challenge the traditional *status quo by providing legitimacy to new behaviours*'.[47] Deterrence also helps in restraining perpetrators generally from participating in FGMC, and in instances where there has been a

44 As above.
45 J Bentham with an introduction in W Harrison (ed) *An introduction to the principles of morals and legislation* (1948) 125.
46 Bentham (n 45) 189.
47 Williams-Breault (n 12) 223-233.

commission by a perpetrator, the individual is further incapacitated when they are punished by being removed from society and being kept incarcerated.

However, the criminalisation approach, which is anchored on the theory of deterrence, has several criticisms and skepticisms. Deterrence makes some assumptions that are rebuttable, such as that every member of the society knows what the penalties are for a crime; individuals have good control over some of their actions, particularly those committed under reflex; and, third, that persons think things through and make choices about their conduct based on logic and not passion. Another assumption is that crime rates can be reduced by decreasing benefits of crime or increasing the severity of the sanction.[48]

Relating the above to the issue of FGM, criminalisation may not be achieving its goal or, at least, not as quickly as would have been expected. First, in a few countries where FGM has been criminalised, the number of prosecutions has been low or non-existing and sentences have been lenient and unpublished. When other prospective perpetrators are unaware of the sanctions befalling already sanctioned perpetrators, the weight of deterrence and essence of criminalisation is lost.

Added to this are issues of record keeping and availability of data, enforcement,[49] administration of criminal justice procedures where there may be unwilling witnesses, and so forth. Further, inflation rates have caught up with the monetary sanctions imposed in several jurisdictions making the fines pitiably low and there is a lack of administrative mechanisms to periodically review prescribed fines, increasing these in line with inflation.[50]

The question therefore is whether the criminalisation of FGM indeed has had any positive impact in abating and eradicating the crime of FGM/C, and to what extent. Laws criminalising FGM appear ineffective in most countries where it has been criminalised, basically because the communities where FGM is prevalent are neither sensitised nor informed on the ills and dangers of the practice, more so that the practice has been proscribed by law. Moreover, legal sanctions alone are

48 EA Fattah 'Critique of deterrence research with particular reference to the economic approach' (1983) 25 *Canadian Journal of Criminology* 79.

49 '28 too many: The law and FGM/C: An overview of 28 African countries' (2018), https://www.28toomany.org/Law (accessed 10 August 2022).

50 As above.

not sufficient to change the attitudes and dispositions of people since legal sanctions fail to address the underlying socio-cultural drivers of FGM. Hence, unless criminalisation is complemented by other measures designed at influencing cultural expectations, it tends to be futile.[51]

African countries where FGM is concentrated that have enacted decrees or legislations related to FGM are Benin, Burkina Faso, Central African Republic, Chad, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Ghana, Guinea, Guinea-Bissau, Kenya, Mauritania, Niger, Nigeria (some states), Senegal, Somalia, Sudan (some states), Togo, Uganda and Tanzania.[52]

The argument on the efficacy of using legislation to ban FGM has been reached by the increasing mutual consensus that law ought to be one of the sets of approaches and interventions to tackle FGM.

4.2 Education and enlightenment

Education is a powerful change agent essential to the success of every crusade, especially in the eradication of FGM/C. Education is a vital and important mechanism that can be used in communicating the increased danger and menace of FGM to society. The education-based approach, therefore, offers communities, girls and women the opportunity to learn, unlearn and relearn. As the world rallies at finding effective means of eradicating FGM, education plays a crucial role in achieving this. The inclusion of gender education and gender-based issues, such as violence against women, gender equality and FGM, in learning curricula has not only become imperative but also expedient.

Education as an approach has two dimensions: The first is educating girls and women who are prospective victims; the second is educating the entire society so that everyone will have knowledge of what FGM is and

51 K Brown and others 'The applicability of behaviour change in intervention programmes targeted at ending female genital mutilation in the EU: Integrating social cognitive and community level approaches' (2013) *Obstetrics and Gynecology International* 1155.

52 UNICEF 'Female genital mutilation/cutting: A statistical overview and exploration of the dynamics of change', https://data.unicef.org/wp-content/uploads/2019/04/UNICEF_FGM/C_report_July_2013.pdf (accessed 10 August 2022). Bans outlawing FGM/C/C were passed in some African countries, including Kenya and Sudan, during colonial rule. This table includes only legislation that was adopted by independent African nations and does not reflect earlier rulings.

an understanding of the dangers inherent in it; this is a community-based educational initiative. When an educated girl or woman is empowered to stand up and make her decisions, plans and aspirations, she is less likely to be a victim of FGM. The two approaches discussed above find a meeting point in the education-based approach because with education, all the participants, that is, the prospective victims, the perpetrators and the communities will have the understanding that FGM is against the rights of the victims and that it has been proscribed by law.

However, a major shortfall of this approach is the fact that parents often subject their girls to FGM/C early in life before they are aware of anti-FGM messages in their school curricula. Consequently, education may not be sufficiently preventive, but there is a positive potential that in the near future educated women are less likely to support or continue FGM. Moreover, girls and women are powerful agents of positive social change in society, particularly when they are educated and enlightened and are able to channel their energy and thoughts in the right direction. Similarly, while this approach is often favoured over the other approaches as it is seen as less repressive,[53] however, this intervention can sometimes be seen by the community members as 'an unsolicited top-down approach'.[54] It therefore is good that communities should be sensitised and worked with, prior to its implementation to guarantee community acceptance.[55] Higher education is another main factor that has shown to support the discontinuance of FGM.[56] The more education a society imbibes, the more liberated it becomes.

4.3 Involvement of men approach

Most societies in Africa are patrilineal in nature where men hold sway in decision making and influence societal outlook. There is an obvious imbalanced power relation where women are the underdogs. Whereas

53 S Waigwa and others 'Effectiveness of health education as an intervention designed to prevent female genital mutilation/cutting (FGM/C/C): A systematic review' (2018) 15 *Reproductive Health* 1-14.

54 Williams-Breault (n 12) 223.

55 S Babalola and others 'Impact of a communication programme on female genital cutting in Eastern Nigeria' (2006) 11 *Tropical Medicine and International Health* 1594-1603.

56 K Dalal and others 'Adolescent girls' attitudes toward female genital mutilation: A study in seven African countries' (2018) *F1000 Research* 7.

it appears that women are in the forefront of the practice of FGM, it is important that men as husbands, fathers, religious leaders and community heads lead initiatives in impelling a change. It therefore is pivotal to secure the buy-in of men in campaigns aimed at attitudinal change, such as the eradication of FGM. The perceptions of men vary from country to country, although most are similar.

In a study carried out in Egypt on men, it revealed that men believed that uncircumcised women are promiscuous.[57] Men regard FGM as important for a good marriage and sexual objective and to ensure that women remain faithful in marriage. However, according to findings of a study carried out in a rural community in Egypt, men opine that women likewise have an equal right to enjoy sex.[58] For men in Guinea, FGM help girls to reduce the possibility of premarital sex.[59] For men in Somalia there is a division on whether FGM prevents premarital sex, preserves girls' dignity, and maintain marital fidelity.[60] In Northern Sudan men appear not to accurately understand FGM because it is until they are married that they appreciate the impact of FGM on their wives.[61]

Several factors influence the support of men for the continuation of FGM, the major one being social obligation.[62] The strong sense of social obligation perhaps is stronger than other considerations such as religion or their sense of rightness or wrongness of the practice of FGM.[63] Another is the level of education of men in addition to their location, whether they live in urban or rural areas.[64] Younger men who have a better

57 A Abdelshahid & C Campbell 'Should I circumcise my daughter?' Exploring diversity and ambivalence in Egyptian parents' social representations of female circumcision (2015) 25 *Journal of Community and Applied Social Psychology* 49.

58 F Fahmy and others 'Female genital mutilation/cutting and issues of sexuality in Egypt (2010) 18 *Reproductive Health Matters* 181.

59 AJ Gage & R van Rossem 'Attitudes toward the discontinuation of female genital cutting among men and women in Guinea' (2006) 92 *International Journal of Gynecology and Obstetrics* 92-96.

60 AA Gele, BP Bø & J Sundby 'Have we made progress in Somalia after 30 years of interventions? Attitudes toward female circumcision among people in the Hargeisa district' (2013) 6 *BMC Research Notes* 1-9.

61 V Berggren and others 'Being victims or beneficiaries? Perspectives on female genital cutting and reinfibulation in Sudan' (2006) 10 *African Journal of Reproductive Health* 24.

62 N Varol 'The role of men in abandonment of female genital mutilation: A systematic review' (2015) *BMC Public Health*, https://doi.org/10.1186/s12889-015-2373-2 (accessed 10 August 2022).

63 Abdelshahid & Campbell (n 57).

64 Varol (n 62).

understanding of the negative health and psychosexual implications of FGM on girls are less supportive of the practice.[65] All these factors act as barriers as to why this approach has not been very effective.

Nevertheless, involving men in this campaign is very beneficial for its eradiation since men play a significant role in society as fathers, brothers, uncles, husbands and religious and community leaders.[66] Their voices are louder, more emphatic, and often final in deciding the social ideology and direction. Also, being the gatekeepers of customs and tradition, men are in a better position to bring dynamics and a paradigm shift to the established social order that has been considered inimical to the social well-being of certain members of society. Through advocacy and men ensemble, our social existence could rapidly be re-directed toward the side of anti-FGM. In communities where there is a high prevalence of FGM, it is important to involve influential men who could lead programmes and advocacy.[67] However, the involvement of men in advocacy at eradicating FGM should be complemented with the rights-based approach, as well as the education and female empowerment approaches.[68]

5 Discussion: Dynamics against the seeming inadequacy of the different approaches

Various approaches have been adopted in fighting FGM/C globally, ranging from the rights-based advocacy, to the education-based approach, the involvement of men, and criminalisation. Despite the sustained efforts at enforcing compliance, the practice subsists in many countries. The question then is, what are we getting right or, rather, what are we doing wrong? It is estimated that between 100 and 140 million girls and women globally are presently living with the consequences of FGM/C, while about 92 million girls, whose ages range from 10 years and above, have been victims of FGM/C.[69] There clearly are perceived hitches and flashpoints in the current approaches requiring attention.

65 A Kaplan 'Female genital mutilation/cutting: The secret world of women as seen by men' (2013) *Obstetrics and Gynecology International* 1.
66 Varol (n 62).
67 As above.
68 As above.
69 WHO 'FGM/C fact sheet' (2020), https://www.who.int/en/news-room/fact-sheets/detail/female-genitalmutilation (accessed 10 May 2022).

It therefore is necessary to reconsider these methods, interrogate their strong points and inherent weaknesses. Consequently, this part of the chapter discusses the various dynamics interfering with achieving success at the eradication of FGM/C, and the identified causes of the inadequacy of the current approaches. There are a few considerations and mitigating factors that should be put in perspective that will enable us to fashion out best-fit-approach that will help at eradicating or reducing FGM/C. These are discussed below.

The strong influence of culture and customary law on people: Culture is a vital concept to the sociological perspective.[70] Culture basically affects the behaviour, beliefs and value systems of any person or society, and it differentiates and impacts the identity of any given society. Culture or cultural practices and perceptions are intricately connected to people's world view and their social existence and interactions are shaped by culture. Over the years, culture has been used to validate practices of each locality or social geography. Persons' orientation, ideologies and perspectives are all embedded in their cultural orientations, and until the orientation itself is rightly addressed from the source, it may become nearly impossible to filter out cultural perceptions and beliefs, since culture is intrinsic. There are questions emerging from cultural perspectives that need to be answered appropriately and satisfactorily, to secure the support of cultural change: Is FGM/C bad? What makes it bad?

The practice of FGM/C is entrenched in cultural perspectives, which have been described as viewing a situation, concept, or practice through the eyes of a person's native environmental and social influence.[71] While there is a tendency to underestimate the impact of culture on the 'owners' of the culture and cultural practices, the truth remains, namely, that individuals are unlikely to do any act contrary to the dictates of his or her culture. Thus, 'FGM/C is still central to the status of women and the normative meaning of being a woman in the cultures that practice it'.[72]

70 https://2012books.lardbucket.org/books/sociology-brief-edition-v1.1/s05-01-culture-and-the-sociological-p.html (accessed 10 June 2022).

71 CulturalPerspective,https://www.alleydog.com/glossary/definition-cit.php?term=Cultural+Perspective (accessed 30 May 2022).

72 M Berer 'The history and role of the criminal law in anti-FGM/C campaigns: Is the criminal law what is needed, at least in countries like Great Britain?' (2015) 23 *Reproductive Health Matters* 145.

Therefore, it is imperative that the cultural stronghold on FGM/C should be tackled right from the source, to get the culture of FGM/C outlawed or changed by the custodians of culture and tradition in each society. There is a need to get the buy-in of the gatekeepers of culture to understand and appreciate the hazards of FGM/C, and these are the set of people who will bring about the desired change and dynamism expected in culture. Eradicating the practice will be difficult if members of the local society fail to identify the practice as unpleasant and dangerous.

There is a need to demystify the cultural purpose of the practice, that is, to keep chastity, family honour, the protection of virginity, the prevention of promiscuity, purification, transition rites, enhancing fertility, and increasing matrimonial opportunities.[73] A failure to change the cultural perspective of society and the cultural gatekeepers to see the dangers inherent in FGM will elongate the bland inability to eradicate the practice. The procedure of cutting girls and women will keep mutating with newer dimensions of existential challenges. This is seen in the situation in Kenya, where there is the medicalisation of the process to remove the threat of hygiene or loss of life associated with the practice when done locally by untrained hands.[74]

It also is essential to develop a process that will make each society understand that FGM/C should not be perceived as a cultural right nor an expression of social identity in a way unique to them but should rather be seen as a practice that undermines the right and health of women and girls in society. Until the cultural values are changed to accommodate the facts that FGM/C is detrimental to the overall good of any girl or woman, the wilful misconduct will continue while the ignorant victims will joyfully and willingly be partakers.

Added to the above equally is the impact of customary law and the inability of the national laws to influence or change the existing customary laws. Several African countries have mixed legal systems referred to as legal pluralism, a situation whereby there are many legal systems

73 TC Okeke and others 'An overview of female genital mutilation in Nigeria' (2012) 2 *Annals of Medical and Health Sciences Research* 70-73.

74 S Kimani & B Shell-Duncan 'Medicalised female genital mutilation/cutting: Contentious practices and persistent debates' (2018) 10 *Current Sexual Health Reports* 25.

operating simultaneously in the same geographical area.[75] This is mainly due to the colonial past of most African countries. There undeniably are several laws and policies outlawing the practice of FGM/C in many African countries, but these laws and policies have had very little impact on the existing customary laws that prescribe and support FGM/C. Using Nigeria and Kenya as examples: In Nigeria, although the 1999 Constitution does not specifically make provision prohibiting FGM/C, there are provisions that protect the rights of citizens against violations.[76]

There is also the Child Rights Act; the Violence Against Persons Prohibition Act 2015; the National Gender Policy 2006; the National Policy on the Health and Development of Adolescent and Young People in Nigeria 2007; the National Gender Policy Strategic Framework (Implementation Plane) 2008-2013; the National Policy and Plan of Action for the Elimination of Female Genital Mutilation in Nigeria 2013-2017; among others. A number of states equally have state laws and policies prohibiting FGM/C.[77]

In Kenya there is the Kenya Constitution 2010;[78] the Prohibition of FGM Act 2011; the Children's Act of 2001; the Penal Code Cap 63; the Protection Against Domestic Violence Act 2015; the National Policy for the Eradication of Female Genital Mutilation 2019; the National Adolescent Sexual and Reproductive; the Health Policy 2015; the National Plan of Action for the Elimination of FGM in Kenya 1999-2019; and the Reference Manual for Health Care Providers on Management of Complications from FGM/C (2007). The Penal Code of Kenya 2012 also contains provisions that when interpreted can be used to charge circumcisers. Both countries equally are signatories to several international human rights instruments that outlaw, condemn and criminalise FGM/C.

75 FR Adegbite 'Legal pluralism and marriage in Nigeria: A structure for denying rights to women' (2020-2021) 31 *University of Ghana Law Journal* 110.

76 Secs 15(2), 17(2) & 34(1).

77 Examples are the Bayelsa State: FGM (Prohibition) Law (224); Cross River: 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 Mutilating Law (1999); Enugu State: FGM (Prohibition) Law (2004); Rivers State: Child Right Act (2009).

78 Arts 29(c) & (f), 44(3), 53(d).

However, despite these national and state laws, the impact and operation of the customary law remains strong on the indigenous people to the detriment of the national and state laws. For many reasons, members of the local community can relate better with the customary laws than other laws. They often are more aware of customary laws than of the national laws that are unknown and obscure to them; they find identity through the customary laws, which remain more accessible and acceptable than other forms of laws operating in the area.

5.1 The limitation of criminalisation of FGM/C as a means of eradication

The UN in December 2012 adopted the first ever resolution to ban FGM/C/C globally.[79] Several countries have enacted legislation criminalising FGM/C. Several countries have put in place penalties such as prison terms and/or the payment of a fine. The question that arises is how effective criminal law is to curb FGM/C. In jurisdictions that have adopted the criminalisation of FGM/C, has this helped in the reduction or eradication? Do the custodians of culture, women and girls who participate in FGM/C believe the procedure to be criminal? Do they believe that the practice is a violation of a woman's sexual and reproductive rights? Do they see it as violating their rights to choose, rights against discrimination, rights to be free from torture, cruel, inhuman, and degrading treatment?

One major limitation of criminalisation is that since the procedure is mostly not done in public, identification is very challenging, limiting the process for punishing perpetrators. If the victims or the participants fail to report, how then can the government set in motion the apprehension, prosecution, enforcement, and punishment mechanisms, particularly when the girls and women involved give consent to the procedure based on their cultural perspective and values?

Moreover, in instances when arrests are made, the procedure would have been carried out, suggesting that criminalisation not often is preventive, rather, it only gives remedy and succour to any unwilling victim. There have been growing debates on the efficacy of criminalisation as an approach, and it appears that the consensus is that criminal law is only

79 UNFPA. Demographic perspectives on FGM/C/C (2015) New York: UNFPA.

one of the many approaches to the eradication of FGM/C. There should be other sets of combative approaches to accompany criminalisation, approaches that influence cultural values and perspectives.

However, it is conceded that legislations banning the practice is a firm government commitment and standpoint on the practice of FGM/C. Criminalisation challenges the existing traditional position by providing a new acceptable model which is inevitable. The success of criminal law, therefore, lies in its tolerance and open-mindedness to socio-cultural and religious acceptability, and its implications. While criminalisation may not be the best or absolute method for eradicating FGM/C, it is equally necessary to create the enabling environment to expedite the overall strategy in its eradication.[80] As such, legislation should be complemented with other measures.

5.2 Straightening out some misconceptions

There are some misconceptions that need to be straightened out to enable us effectively to address FGM/C. The need to straighten these out is apt and necessary to identify the underlining causes and roots of FGM/C. The first is the misconception that FGM/C is forced on women by men. The society that carries out FGM/C comprises men and women and the persons who do the actual cutting are both men and women. While there is a substantial role that men play or should play in its eradication, the level of knowledge and understanding of the nature and implication of FGM/C goes a long way in the effectiveness of any method to be used in its eradication. There is a need to attend to the belief system and perception held by men of uncut women. The focus, therefore, should be placed on how these perspectives can be positively redirected. In fact, it has been revealed that some men accurately do not understand FGM/C and its negative impacts on the health of a woman and marital sexual relationships.[81]

Another issue is tied to the terminology attached to this procedure, that is, 'mutilation'. Mutilation appears derogatory, condescending and connotes destruction, whereas, FGM/C to the communities are 'value-adding procedures' and not damaging. The perpetrators, victims and

80 Nabaneh (n 30).
81 Varol (n 62).

the entire community do not regard it as destructive, but as a process of creating social order that is sexually and morally sane. Research has shown that in some African cultures, it is believed that bodies are androgynous where all male and female bodies have male and female parts.[82] Therefore, the man's foreskin is a female part and the female's clitoris covering is a male part, and both should be cut away so as to be wholly male or female.[83] The use of the word 'mutilation' sounds offensive to the sensibility of society and should be entirely changed to 'modification' and 'cutting' rather than 'mutilation'.

5.4 Medicalisation of FGM/C (the mutation of domestic responses)

There is an increase in the use of medical facility to perpetrate FGM/C across many countries. It is estimated that 26 per cent of females in the age range of 15 to 49 have been reported to have been cut by health professionals, and the rates are rising.[84] Five countries with the highest rate of this include Sudan (67 per cent); Egypt (38 per cent); Guinea (15 per cent); Kenya (15 per cent); and Nigeria (13 per cent).[85] The medicalisation of FGM/C occurs when FGM/C is carried out by any category of health professional, whether in a public or private health facility and at any point in a female's life, either as a minor or an adult,[86] particularly, when the female involved is giving informed consent, that is, exercising her right to determine what should be done to her body. Based on this, can a female adult with capacity and competency request FGM/C? Can this be seen as part of an adult woman's right to do what she desires with her body? Is it bad only when it is perpetrated on a minor? Is it ethical for medical practitioners to participate in FGM/C?

82 O Khazan 'Why some women choose to get circumcised', https://www.theatlantic.com/international/archive/2015/04/female-genital-mutilation-cutting-anthropologist/389640/ (accessed 27 May 2022). An anthropologist discusses some common misconceptions about female genital cutting, including the idea that men force women to undergo the procedure.

83 Khazan (n 82).

84 B Shell-Duncan, C Njue & J Muteshi 'Medicalisation of female genital mutilation/cutting: What do the data reveal?' (2017) *Reproductive Health*.

85 As above.

86 E Leye and others 'Debating medicalisation of female genital mutilation/cutting (FGM/C/C): Learning from (policy) experiences across countries' (2019) 16 *Reproductive Health* 158.

Has medicalisation reduced the harm and pains being inflicted on the perceived victims?

There have been a number of researches debating the medicalisation of FGM/C. The prevailing argument is that medicalisation cannot be right or acceptability based on the ethical principles that predate the era of rights; largely anchored on the principles of (a) beneficence, that is, doing what is the best for the patient; (b) non-maleficence, that is, do no harm justice, that is, all persons will be treated fairly and equitably, equal respects for all persons.[87] It is glaring that, based on these ethical medical principles, the healthcare professional will be doing wrong by engaging in FGM/C. This chapter aligns with the conclusion that the medicalisation of FGM/C is a human rights abuse with lifelong consequences, irrespective of who performed it.[88] Moreover, the fact that the healthcare professionals are making financial gains from sustaining and supporting cultural norms that have been outlawed and regarded as being wrong and against human rights presents a scorecard of profit objectives.

5.5 Socio-cultural and religious distrust of Western interventions

There exists a type of distrust by developing countries on ideologies and interventions emanating from developed countries. This perhaps is one of the reasons why there is much hesitancy and many agitations whenever there is an evolvement of any intervention ideas or programmes from the developed countries and, conceivably, this may not be unfounded. Some time in 1996, Pfizer, an American multinational pharmaceutical and biotechnology corporation, had an 'illegal trial of an unregistered drug', trovafloxacin (Trovan) in the northern part of Nigeria during an epidemic of meningococcal meningitis which led to several deaths and disabilities of the participants.[89] This singular incident closed the minds of the indigenous northerners to Western drugs and medical interventions. Similarly, the COVID-19 vaccine was greeted with doubt

87 JP Olejarczyk & M Young 'Patient rights and ethics' (2021) StatPearls Treasure Island (FL), https://www.ncbi.nlm.nih.gov/books/NBK538279/ (accessed 30 May 2022).

88 Shell-Duncan and others (n 84).

89 J Lenzer 'Secret report surfaces showing that Pfizer was at fault in Nigerian drug tests' (2006) 332 *BMJ Clinical Research ed* 1233.

when it was first produced and projected as a potent prevention for the ravaging pandemic. Another is the issue of rights. The Western world has been able to achieve an admirable compliance with human rights, but unfortunately some of these rights have found no resting place in the value systems of many African countries. Examples are abortion rights, same-sex unions, and marriages. These practices that are seen as immutable human rights by developed nations are still abhorred in many developing countries. Based on this, most ideologies and interventions from the developed nations are seen as an imposition of Western ideologies and value systems on developing countries. This misplaced perception is also based on the level of education, information, and enlightenment among the populace. To pierce through this mistrust, attention should be given to trust-enhancing triggers while strategic communication approaches should be used to burst the trust bubbles.[90]

6 The home-grown approaches: Bottom-up method

FGM/C is a menace affecting girls and women globally and there have been many approaches employed by each country for its eradication. However, FGM/C appears to still be thriving in our various communities. The question then arises as to what else can be done to achieve better, faster and more accurate success at its eradiation. Over the years, there has been a shift from medical arguments to human right arguments as regards the wrongness of FGM/C. Also, the inability of the human rights-based approach at eradicating the practice brought about its criminalisation in order for women to be able to turn to the state for protection.

Granted, FGM/C is an international concern that has elicited various discussions and researches. Accordingly, it is apposite to have a global perspective of the issue so as to develop a universal vision, comprised of what has been done, what has not been done and what ought to be done to attain success. However, if a speedy and precise success is to be attained, adopting the locally home-grown method is best suited. The home-grown approach is a call on indigenous people to become active participants and no longer passive subjects of what is being done to

90 J Amo-Adjei and others 'Trust and willingness towards COVID-19 vaccine uptake: A mixed-method study in Ghana (2021) 80 *Archives of Public Health* 64.

them. This model entails the use of the bottom-up approach wherein the process of decision making and implementation originates from the lower level or the community and proceeds upwards. With this approach, persons who are direct participants of FGM/C, that is, victims, customs gatekeepers, and community leaders are also included in the ideation of the innovative means of eradicating it and this is done per community.

Having identified the foremost factors that promote FGM/C in their community, each community is empowered through discussion and negotiation to ascertain and make use of the appropriate form of interventions that will be appropriate for a quicker and more accurate response. For instance, in a community where FGM/C is a rite of passage based on the dictate of culture, such community may require an eradication approach different from one wherein the justification for FGM/C is the prevention of promiscuity. The implication of this is that there will be a spread of diverse approaches across communities in each region or county and this will originate from within the community itself. There should be a painstaking engagement with the members of each community and, jointly, justification for FGM/C will be identified, and a concession will be reached as to the most effective form of approach to be utilised in such community. A strong team is formed with the members of the community who will invent a home-grown approach from within.

It is imperative to involve the customs gatekeepers, to identify the custodians of customs in each locality and do a micro-education and enlightenment, not a one-cap-fits-all. It may be necessary to align with the idiosyncrasy of each locality and culture. Each country should embark on a campaign project to hear out the local women before handing down a law or policy. There should be focused group discussions by these women on why they still support FGM/C, buy them over and make them the anti-FGM/C ambassadors.

Let the collaborative campaign evolve from within the society and not from the outsiders (international) or Western campaigners. In providing solutions, it is important that the government does not alienate the people it intends to help. Until FGM/C is regarded as wrong by the custodians of culture, the practice may not be eradicated. The custodians must speak out and say that it is bad. It is also worthy to generate discussions that will set the agenda by the indigenous people and the local communities. This will enable them to participate in positive decision-making processes

aimed at eradicating FGM/C. There is also a need to engage victims (and their spouses) with proof of backlash and side effects on health status of victims of FGM/C.

There are a number of benefits in engaging this form of approach, ranging from increased collaboration, improved team motivation and morale, better alignment of every participant, faster innovation, increase of trust among stakeholders as more informed decisions are made while the lower part of the team leverage the knowledge.[91] Also, using the home-grown bottom-up approach, better mileage and traction can be gained in the fight at eradicating FGM/C, since the benefits of this approach appear vast. In solving problems and creating solutions, the people one intends to help should not be alienated. The approach must not appear condescending as one must first appreciate the cultural imports of the procedure, deploy persuasive communication to stem the tide rather than outrightly degrade the practice.

Essentially, the domestic solution through the bottom-up model entails that the specific method of eradication should be identified and applied to specific locations, irrespective of the geographical proximity of each location. This, therefore, requires that a particular approach that predominantly and effectively works in a particular location and culture may not work in another. This may be based on different reasons, ranging from the level of enlightenment of each community, to the environmental situation, socio-cultural experience and other factors that may affect the reception and ability to change by each community.

There should be a multiplicity of methods engaged across board, requiring further inquiries and research to understand the predominant cause in each locality, so that the government of each country can have multiple strategies in place to end FGM/C. Multiple strategies comprising of laws, education and other integrated approaches that will enhance its success in their respective localities. As mentioned earlier, there is also a need for government to identify the root causes per locality and deploy customised models that can solve the problem per locality. The proximity of geographical areas does not mean that the solutions that worked in area A will work effectively in area B.

91 A Arrizza '6 benefits of using a bottom-up management approach', https://voila.app/en/blog/6-benefits-of-using-a-bottom-up-management-approach/ (accessed 1 June 2022).

An example of the use of home-grown alternative methods and interventions can be seen in some communities in Kajiado county in Kenya, the implementation mode of which has left a positive experience.[92] A community-led alternative rite of passage (CLARP) was initiated and implemented as an alternative to the traditional rite of passage in which the female genital was cut as an indication of transition to adulthood. It was created with the intention of curtailing the prevalence of FGM/C within that community. CLARP is an alternative rite of passage designed for girls to celebrate their initiation into womanhood in adherence with the cultural practice of the community but without undergoing the cut.[93] The aim of this initiative is to help maintain the cultural requirement of a rite to transit girls into womanhood without them undergoing the cutting of their genitals.

CLARP sought to change the existing social norms and reverse the rate of FGM/C in Kajiado, and this is achieved by involving the stakeholders in the community, such as the cultural leaders referred to as *Morans, religious leaders and other community leaders. The initiative was not a swift and instant process because several steps were taken while executing the CLARP which had a duration of six to 48 months.*[94] Some of the significant outcomes of the CLARP intervention in the community was the creation of 'a community movement that takes action to transform social and gender norms that perpetuate FGM/C'.

The initiative helped in initiating community-led discussions around FGM/C and equally empowered girls and women, community leaders and policy makers to develop policies and laws on FGM/C and its detriments within the community.[95] Similar alternative rites of passage (ARP) have been successfully executed in other communities such as Meru, Kisii, Kuria and Narok which were practising FGM/C as a large celebration in the community.[96]

92 https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0249662; https://data.unicef.org/topic/child-protection/female-genital-mutilation/ (accessed 7 June 2022).

93 L Hughes 'Alternative rites of passage: Faith, rights, and performance in FGM/C abandonment campaigns in Kenya' (2018) 77 *African Studies* 274.

94 S Muhula and others 'The impact of community led alternative rite of passage on eradication of female genital mutilation/cutting in Kajiado county, Kenya: A quasi-experimental study' (2021) 16 PLoS ONE. DOI 10.1371/journal.pone.0249662.

95 As above.

96 As above.

The findings of a study carried out by Muhula and others suggest that the successful implementation of CLARP led to a 24.2 per cent decline in FGM/C in that community and has contributed to the drop in the prevalence of FGM/C.[97] The study was also able to demonstrate that CLARP has been positively received by the Maasai community, and it has played a huge role in reducing the FGM/C practice in Kajiado. Although CLARP as an alternate rite of passage came with its several barriers; there is resistance to cultural change, particularly by some *Morans and elderly who believe that FGM/C is central to the sacredness of the cultural practice.*[98]

Therefore, some people within the community still stigmatise girls who partook in CLARP instead of the existing traditional rite of passage wherein girls are cut. Further, there is the peer pressure, particularly from young men who are still resistant to marrying girls who are uncut.[99] Nevertheless, the study has demonstrated that this community home-grown initiative has been able to significantly reduce not only FGM/C but other vices such as teenage pregnancy, early and forced marriage rates of children and that there is a slow and gradual embrace of it by the community.

Contrast the above scenario to the situation in Dawe district, Afar region in Ethiopia where, in spite of its criminalisation, the practice remains prevalent. Ethiopia has a high prevalence of FGM/C and the Afar region is one of the regions with a prevalence rate above 80 per cent.[100] The severity of FGM/C in Afar region is high compared with other highland areas of Ethiopia and the practice is deep-rooted in socio-cultural beliefs of the people.[101]

A study was carried out to interrogate why, in spite of the several local and international interventions on FGM/C in the region, there has been very little reduction and despite the legislative interventions that criminalise the practice the rate remains high.[102] One of the findings is

97 As above.
98 As above.
99 As above.
100 UNICEF 'Female genital mutilation/cutting: A statistical over-view and exploration of the dynamics of change' (2013) New York: United Nations Children's Fund, UNICEF.
101 As above.
102 YA Masresha 'The difficulties of ending female genital mutilation (FGM): Case of Afar Pastoralist communities in Ethiopia' MA dissertation, International Institute

that a major factor contributing to the slow reduction in FGM/C is the 'lack of proper linkage between the main actors within the society and the factors that directly affect the process of eradication'. The failure at eradicating FGM/C is a cause of the unfriendly top-down intervention approaches. Interventions at eradicating it need the active involvement of major groups and stakeholders in the community to bring about attitudinal changes entrenched in customs and culture. The findings of the research further stated that the 'unfitted approached to the socio-cultural conditions of the society plays a great role for the failure in achieving goals'.[103]

It therefore is pertinent to localise solutions for this global issue by identifying the causes peculiar to each locality and the use of model or combined models that can address that specific locality. The implication of this is that, in a single country, there will be varying models and the emphasis will be placed on the model suitable for each locality. The government should assist locals to come to the verdict that FGM/C is harmful and should be done away with, rather than the international community and the government at the top echelon imposing the verdicts on the people. The decision to stop should evolve from within.

Further, attention should be given to trust enhancers and influencers between the international community and the local communities while strategic communication approaches be used to remove the mistrust triggers. The campaign should be louder and should build a bigger and better structure for surveillance that involves the local people, community leaders and influencers, not only the official surveillance structure.

Likewise, incentivisation can be used in curbing FGM/C; using the system of rewards and incentivising community where it can work, particularly in communities where there is acute poverty, when locals gets financial and material rewards. Perhaps this can strengthen people's will to embrace the eradication of FGM/C. There could be incentives such as the partial exemption of fathers from tax payments for some time and/or making the parents of uncut girls enjoy some advantages above those that have subjected their girls to FGM/C, such as subsidised or free education for uncircumcised girls.

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of Social Studies, Ethiopia.

103 As above.

Incentives can also be extended to whistle blowers who make reports that will facilitate the arrest of participants and victims, in order for criminalisation to be effective. The use of incentives will help in strengthening the link between the activity and the objective of the activity, which is the eradication of FGM. Equally, the use of incentives often helps in a change of behaviour towards the proposed outcome.

7 Conclusion

This chapter identified FGM/C and its various types. It also examined the origin, perspectives, prevalence and spread of the practice. It discussed the numerous approaches in which the various government have engaged previously, aimed at reducing and/or eradicating FGM/C, but discovered that the battle is far from being won. There is a need for the deployment of a multi-faceted approach.

While governments should identify the root cause or the predisposing basis for its continuation, knowledge of the initial practice in each locality becomes compelling to assist in tackling the menace. It should be noted that the fact that a community is geographically close to another does not suggest that the reasons for the practice of FGM/C are the same. When the reasons are identified, then the tailor-made homegrown approach that is fit for that locality should be engaged.

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