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Institute of Diplomacy and International Studies

**Gender Based Violence and International Human Rights Question: A Case of Female
Genital Mutilation in Kenya**

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the Institute Of Diplomacy and International Studies**

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DECLARATION

This research proposal is my original work and has not been presented for the award of a degree in masters at this University or any other Institution of higher learning.

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Signature.....

This research proposal has been submitted for examination with my approval as the University of Nairobi supervisor.

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DEDICATION

I wish to dedicate this work to my dear family for their support, patience, understanding and sacrifice during my study.

ACKNOWLEDGEMENT

I acknowledge my supervisor Professor Maria Nzomo for her guidance and input throughout the study. Her advice, insightful critics and immense patience and encouragement aided the writing of this proposal in innumerable ways. I further wish to thank my fellow course participants for their efforts and support during the study. To the Almighty God, Thank you for your faithfulness and providence.

LIST OF ABBREVIATION

AIDS	Acquired Immuno- Deficiency Syndrome
ECOSOC	United Nations Economic and Social Council
FIDA	Federation of Women Lawyers - Kenya
FGM	Female Genital Mutilation
GBV	Gender Based Violence
HIV	Human Immuno-Deficiency Virus
HRC	Human Rights Commission
ICCPR	International Covenant on Civil and Political Rights
KDHS	Kenya Demographic Health Survey
LGA	Local Government Association
NGOs	Non-governmental Organisations
NPS	National Police Service
ODPP	Office of the Director of Public Prosecutions
PTSD	Post Traumatic Stress Disorders
RBA	Rights Based Approach
SRH	Sexual and Reproductive Health
STIs	Sexually Transmitted Infections
TBA	Traditional Birth Attendant
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme

ABSTRACT

Gender based violence (GBV) come in different forms and all go against human rights. From the literature, the study has highlighted some of the GBV and narrowed down to FGM which formed the basis of the study. The study set out to evaluate gender-based violence as international human rights question by looking into FGM in Kenya. The study aimed at evaluating the regions in Kenya where the practice was rampantly carried out in order to inform stakeholders that are tasked with eradicating it. The objectives of the study included to evaluate the intensity of Gender Based Violence internationally - especially FGM - in contrast to Kenya, to evaluate the prevalence of FGM in Kenya, and to examine the appropriate Right Based Approach intervention strategies in addressing FGM in Africa. The tools that were used in data collection in this study included questionnaires and interview guides both for administrators. Secondary data were used especially in relating to how the international communities have dealt with the issue of FGM. Purposive sampling was used to identify key informants such as officials (administrators) in government institutions dealing with FGM, NGOs, INGOs based in the forty-seven counties. This meant that the administrators of such institutions were the targeted population. The study found out that the practice of FGM was highly practiced in Asia where it is still legalised followed by Africa; though it is illegalised in Africa. It also found out that health approach strategy was widely used in handling FGM cases alongside legal approach and human rights approach were equally applied in dealing with the problem. The study achieved the first objective by establishing that FGM was still not criminalised in Asia making it very much practised in that continent. It also established that the practice was rampant in Africa even though every country in Africa has criminalised the practice. In Europe and US, the practice is criminalised even though the cases found were on the immigrants who relocated to the places after having undergone the cut. The study achieved the second objective by unpacking the fact that high FGM prevalence in Kenya is found in parts where Islamic religion was populous and where traditional cultures were still practised. The study achieved the third objective through ascertaining that the most right based approach intervention used in addressing FGM problem in Kenya is the health approach. Other two important ones include legal approach recorded and human rights approach. The study concluded that, there are four counties that FGM is still practised rampantly. The counties in order of severity impactation include Isiolo, Kajiado, Kisii, and Narok. The study recommended the need for the international community to join hands in censuring the Asian continent to illegalise FGM. It also recommended the need for Africa to make its legal instruments operational because it defeats logic to illegalise a practice yet it remains rampant in the some states. It also recommended the need for the government to use local administrators to avert early marriages. Local administrators have good access to the grass-root level and could be privy to issues of FGM that lead to early marriages. There is need for concerted efforts in sensitising women to become conversant with their human rights. Awareness of one's rights will give conducive space for fighting for those rights once they're violated.

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CHAPTER ONE

1.1 Background to the Study

Gender Based Violence, violates fundamental international human Rights and it is thus regarded as a human rights issue that must be tackled by treaties and human rights instruments. Gender-based violence is most prevalent in Africa than other continents of the world. The high prevalence is majorly attributed to low levels of education, existence of past violence, patriarchal systems, attitudes tolerating violence and gender inequality and high levels of illiteracy levels that cause low access to information especially regarding Human Rights.¹ GBV violates human rights like the right to life, freedom from torture, cruel inhumane/ degrading treatment, and the right to equality/ right to attainable of the utmost level of mental health and bodily health. GBV is a human rights violation and linking it to human rights provides new opportunities for analysing the struggle of ending FGM.

The definition by SIDA on GBV is given as any suffering, pain or harm inflicted on anybody; whether male or female of any age. The definition explains that GBV has a negative effect on development or identity of a person as it impacts on their emotional, physical, psychological health, and by far sexual health of an individual. SIDA contends that the cause of these violence often arise as a result of discrimination in terms of gender as well as power inequalities.² Even though gender parity has been singled out as one of the many reasons why there is rampant GBV in various homes, little has been done; especially in addressing the plight of women most of whom their lives have been trampled on by the male gender.

¹ WHO 2013

² SIDA (2015). Preventing and Responding to Gender-Based Violence: Expressions and Strategies

GBV comprises of psychological abuse, physical, and sexual. Others include abuses like arbitrary withdrawal of liberty, coercion, threats, and economic deprivation whether occurring in private or public life. Apart from the mentioned ones, GBV takes different major forms that include child trafficking, sex trafficking, child labor, coercion for sex and abuse, forced labour, domestic violence, and derogative traditional practices like forced marriage or early marriage, female genital mutilation/ cutting and “honor” killings³

On the other hand, Human Rights framework protect economic, civil, social, political, and cultural rights which GBV through FGM is part of. However, it doesn't matter what type of right is being violated, human rights should all be protected and realised. Human Rights are universal and everyone regardless of age, gender, race, geographical location or religious affiliation is entitled to Human Rights. Everyone is at liberty to the enumerated rights by merit of simply being human.⁴

Human Rights are also indivisible, interdependent and interrelated meaning that, the warranty of political and civil rights depend on the surety of a government to ensure socio-economic rights and vice versa - all rights should be guaranteed in all sectors, not just a few. This aspect recognizes that if a government violates the right to participate in elections it also depicts a violation in the right to life and the right of expression.⁵ The Human Rights Framework also acknowledges the fact that people have a right to participation- to take part in coming up with resolutions in regards to the protection of their rights. The right of a person to not only take part in any decision-making platform, but also on government

³<http://usaidlearninglab.org/>.

⁴<https://www.nesri.org/human-rights>

⁵ Ibid

decisions about human rights is enshrined in the constitution of different states. Governments should also, include Civil societies in issues of Human Rights.⁶

National Governments should also create avenues of accountability for enforcing international human rights. This will ensure that effective measures are put in place to hold the government accountable on issues of human rights. Transparency is also a key issue a government should consider by ensuring openness on information and decisions concerning human rights. Citizens of a country must be aware of how decisions relating to rights are arrived at, and how institutions like schools and hospitals are protecting these rights.⁷ Human Rights must be guaranteed without discrimination by keenly observing equity and non-discrimination. This comprises the protection from practices and laws that are discriminatory in nature. The standard of non- discrimination is complemented by the principle of equity. Nations are responsible for securing equal gratification of human rights by guaranteeing reduced inequalities through its distribution of resources.⁸ GBV is therefore, a human right's issue that must be dealt with a multidimensional approach.

The issue of GBV cuts across both genders and even when it is directed towards men it still remains to be GBV. According to US national domestic violence⁹, men experience some varied GBV. More than 28.5 percent of men in the US have undergone through stalking by a partner, rape, and physical brutality; while 13.8 percent of men above eighteen years in the US have been reported victims of severe physical violence by an intimate partner in their

⁶ <https://www.nesri.org/human-rights/human-rights-a-global-vision>

⁷ <https://www.nesri.org/human-rights/human-rights-a-global-vision>

⁹<https://www.thehotline.org/resources/statistics/>

lifetime. This report goes on to reveal that men in the US are also sexually violated and gives statistics such that 1.4 percent of men have been raped in their lifetime by any sexual perpetrator; 35 percent of men have been stalked, raped or physically abused by a partner with whom they are intimate and have reported both long and short post-traumatic stress disorder injuries and symptoms in comparison to 81% percent women who have gone through the same. Still on sexual abuse, more than 52.4 percent men in the US have been reported as raped by an acquaintance and 15.1 percent of the men reported to have been raped by strangers. GBV against men is also a human rights' issue and should also be handled with the same concern just as GBV directed towards women.

The statistics above are in big contrast to the situation reported in Africa. For example, on the study of domestic violence against men in primary care in Nigeria, Dienye and Gbeneol¹⁰ found a prevalence of 0.0023 percent of men who have experienced domestic violence meted on them by their wives. The low percentage attributed by the two researchers is because of the strong traditional beliefs that Africans have that hold the position of men/ husbands with respect as the heads of the families.

Chelang'at however,¹¹ gives a different reason as to the low percentage in Africa; in the study on domestic violence against men. A study that was carried out in Kiambu East sub-County - reports that men undergo such violence but fail to reveal them as a result of fear of stigmatisation. On this study, 7 percent of men were found to have been exposed to spousal abuse. The study goes on to expound on some of the abuses that the people in Kiambu,

¹⁰ Dienye, P. & Gbeneol, P. (2009). Domestic violence against men in primary care in Nigeria. *American Journal of Men's Health*, 3 (4), 333-339.

¹¹ Chelangat, C. (2016).. MA in Anthropology Thesis. University of Nairobi.

Kenya observe as domestic violence which include pushing, beating, biting, injuries to victims - scolding with fire or hot water and stabbing, economic deprivation, raping, verbal abuse, and coerced sexual intercourse.

Henceforth, GBV towards men in Africa is also under reported for fear of losing masculinity and regarded inferior to the female gender causing most men in Africa to hide their predicament behind a culture that does not allow them to express their pain. This culture is also the cause as to why a majority of men in Africa die mostly of suicide as they fall into depression for lack of avenues of expression.

The short preceding overview gives a picture of how GBV is not a reserve of the women as the only victims as men also experience domestic violence from their female spouses even though majorly it is not to a larger degree as to women. The above overview informs us that abuse can also happen at the family level and it mostly starts here before it moves to the larger scope of a community and to the nation at large. Working with GBV at a family level would yield better results than addressing it from up-down approach as mostly governments are not accountable in issues of international human rights violations like GBV. However, the current study singles out FGM as the area of interest as it violates international human rights.

Many reasons have been put across as to why FGM is rampantly practised; the main reason being a rite of passage from the age of being a girl to adult woman;¹² though this is changing nowadays due to criminalisation of FGM in many African countries, children as young as

¹² Ibid 10

newborns are circumcised to hide them from future government and NGO interventions. These children will not know they had been circumcised and some of them will only know when they are later informed by a health practitioner at the labour ward during child delivery. Other reasons range from myths and misconceptions that regard an uncircumcised woman as being unhygienic and smelly and that if the clitoris is not cut it will grow to the size of a penis. The other myths are that the children borne to uncircumcised woman are cursed and will never get married or marry and that the traditional birth attendant delivering a child of uncircumcised woman may get blind during the birth process. FGM also being a cultural practice creates acceptance at the community to all individuals who practice it and causes stigmatisation to those who do not abide by it. FGM is also culturally practiced to curb a woman's sexual urge as many hold it in their belief that a circumcised woman is faithful to only one sexual partner. FGM therefore as a GBV is a violation of international human rights where women (both young and old) are the main victims however men and boys are also indirect victims. According to Dienne and Gbeneol men also suffer indirectly from FGM if the victims happen to be their wives or daughters especially when loss of life occurs during the actual cut.

Men may also suffer sexual deprivation when FGM directly affect their wives' urge for sex as FGM affects women's libido making them less interested in sexual intercourse. This leads to infidelity as these men seek for satisfaction elsewhere hence increasing their chances of contracting STIs like HIV&AIDS. The practice infringes on right to health of the victim, the right to life when FGM results to death, the right to be torture free and cruel/ degrading treatments that are always inhumane. This act of cutting clitoris has portrayed gender

inequalities over the years because it is an excessive unfairness against women Sexual and Reproductive Health (SRH). This is because every part of the body – be it of a man or woman, was created for a reason. This calls for decorum when handling the vital body parts because without such parts people could qualify to be called crippled because FGM is actual maiming.

1.2 Problem of the statement

This study seeks to address the violation of international human rights manifested through GBV in Africa. However, the study singles out FGM as one of the forms of GBV, Kenya being a case study.

This area is of great interest to me as a researcher because, the international community has not addressed the violations of international human rights caused by GBV as it has addressed other international human rights violations like for instance, when a person is held as a prisoner without trial, it is observed as a major concern of international Human Rights violation whilst wife or husband battering is considered to be of lesser value and it is only addressed as having been caused by cultural factors and it is not considered as an international human rights violation. This may only gain more attention when the victim dies due to violence directed towards them and at this point an issue that could have been addressed earlier would have escalated.

Likewise, the attention the international community has given to issues like peace and security is greater (to the extent of ensuring women participation in peace and security under agenda UNSCR 1325), than the attention towards violation of gender-based rights. Addressing the area under study, the researcher expected that it would open the eyes of the international community on International violations of gender-based human rights.

Also, regardless of the many continental, regional and national legislative programs that exist to address GBV currently, communities in Africa have not decisively dealt with incidents of GBV as a violation of international human rights.

Culture and other social structures also play a major role in undermining International human rights. These cultures defy legislations and rules as they are deeply rooted in the heart of communities hence; requiring concerted international efforts in addressing it.

1.3 Research Questions

The study sought to answer the following questions;

- i. How rampant is Gender Based Violence, especially Female Genital Mutilation, internationally?
- ii. What is the prevalence of Female Genital Mutilation in Kenya?
- iii. What are the appropriate Right Based Approach intervention strategies that could be adopted in addressing FGM in Kenya?

1.4 Research Objectives

1.4.1 General Objectives

The main objective of this study was to address GBV as a defiance of international human rights, by doing a critical analysis of the case of FGM in Kenya.

1.4.2 Specific Objectives

- i. To evaluate the intensity of Gender Based Violence internationally, especially Female Genital Mutilation.
- ii. To evaluate the prevalence of Female Genital Mutilation in Kenya
- iii. To examine appropriate Right Based Approach intervention strategies in addressing FGM in Kenya as a form of GBV.

1.5 Literature Review

This literature review focuses on the empirical literature, background of gender-based violence in different settings, history of Female Genital Mutilation, Human Rights context of FGM, International and national legal frameworks prohibiting FGM in Kenya, Gender and Feminist focus on the practice of FGM and the impact of GBV in relation to FGM as one of its types. This section will also focus on the theoretical framework and summary of literature review and knowledge gaps.

1.5.1 Empirical Literature Review

Gender-based violence as a violation of international human rights happens across the sexes. This literally means that a male gender can be a victim of GBV as much as a feminine

gender. The different types of Gender Based Violations include psychological abuse, physical, and sexual. Others include abuses like arbitrary withdrawal of liberty, coercion, threats, and economic deprivation whether occurring in private life or public. Apart from the mentioned ones, GBV takes different major forms that include child trafficking, sex trafficking, child labor, coercion for sex and abuse, forced labour, domestic violence, and derogative traditional practices like forced marriage or early marriage, female genital mutilation/ cutting and “honor” killing. Among the mentioned Gender Based Violations, FGM is reported to be the most rampantly practiced across the world with more than 200 million girls and women alive today being victims.¹³

A survey was done in Italy by Ortensi, Farina, and Leye¹⁴ that sampled nine communities concerning the first-generation migrant women to verify the pervasiveness of FGM in the country. The survey found out that an estimated 60,000 to 80,000 foreign-born females of age 15 and above who had undergone FGM were present in Italy in 2016.¹⁵ This study was done in order to have an evidence-based on Anti FGM policy making. This study is relevant to the current area of study as it informs on the importance of legislations that must be put in place for FGM to be eradicated.

¹³UNICEF. Female Genital Mutilation/Cutting: A Global Concern New York: UNICEF; 2016

¹⁴Ortensi, Farina, and Leye (2016). Female genital mutilationBMC Public Health Journal, 18: 129.

¹⁵ Ibid.

Brown, Beecham, and Barrett¹⁶ studied behaviour change as an intervention means of addressing FGM in the UK. They integrated the social cognitive and community level approaches in the process because behavioural change has a lot to do with the social cognitive of people in a community. In regards to this study, it was ascertained that change in behaviour has not been put into practice as a result of lack of reaching a consensus between community-change theoretic approaches that deal with the change within community and individualistic decision theoretic approaches that deal with individual's decision¹⁷. The paper concluded that, there was need to include and respect the individuals view as far as the matter of FGM was concerned even as the community must be sensitised on the traditions that do not bring benefit to the community and individuals.

The practice of FGM in Malaysia seems to be rampant as compared to other countries in Asia. The country has the highest FGM prevalence at an estimated percentage of 93.5% of women that have undergone FGM. Even though the country's position on the practice is known as legal, the country's health ministry has called for a need to standardise the practice by ensuring that only medical doctors execute the practice. The reason why this practice is rampant in Malaysia is because of the strong belief and attachment to FGM that the mothers attach to it. This belief has led Malaysian mothers initiate their daughters to the knife at an early stage as it has been revealed.

¹⁶Brown, Beecham, and Barrett (2013). The Applicability of Behaviour Change: Integrating Social Cognitive and Community Level Approaches, 4(3): 1-12.

¹⁷ Ibid.

According to UNICEF, Somalia is the country where FGM is mostly practised across the globe where 98% of her women population being victims¹⁸. The practice is deeply entrenched in the country and FGM is high in Somalia because the women seem to agree with it where 65% of women think that FGM should continue¹⁹. This shows that even though the harm is being inflicted on them during the process, many would rather maintain it and contend with the pain than to go against cultural practices.

Moranga did a case study in Nyamira²⁰ County where she looked into the factors that influence FGM practice. The study revealed that mothers contributed significantly to the practice of FGM. The report revealed that majority of the mothers (74.2%) who had undergone FGM took their daughters for the cut hence making mothers an important point of reference when FGM culture is being performed.

1.5.2 Gender-Based Violence (GBV) in different Forms

Gender based violence is violation of individual human gender rights. GBV happens in scenarios such as: sexually, economically, physically or psychologically a partner tries to hurt the other. It can occur between partners, couples, young teenagers and spouses such as wife beating and insulting. People of different races, religion, age and demographics can be victims of violence in human rights. It is majorly carried out by both men and women and it can occur in same or opposite sex relationships or marriages.

¹⁸ Ibid 13

¹⁹UNICEF (2006).Statistical country profile on female genital mutilation/cutting. Somalia.

²⁰ Moranga, E. (2014). Factors influencing the practice of female genital mutilation in Kenya: a case study of Gachuba division, Nyamira County. UON Thesis.

Various forms of violation of human rights include; injuries, sexual abuse, homicides, economic deprivations, emotional abuse, mental abuse, threats, physical violence and intimidation. It is estimated globally that of the 87,000 women whose lives were intentionally terminated in 2017, the killing of more than half (50,000 - 58 per cent) was orchestrated by family members or intimate partners were killed by intimate partners or family members, meaning. Still 137 women globally were eliminated as being killed by their own family member on a daily basis. Moreover, in 2017 slightly above a third of the figure 87,000 that is (30,000) of the women intentionally were killed by their existing or past intimate partner.²¹ Women have highly been victims of domestic violence and other forms of GBV where men's dominance has been experienced over for the past years in history. This however, does not dispute the fact that men also face GBV. An analysis is required on international human rights violations against women which has accrued politically and socially hence causing their exploitation; exploitation in power relations in different states, exploitation in labour and female bodies. Women have been assaulted and are more vulnerable to sexual harassment, human trafficking and slaves in different states such as Saudi Arabia, Asian countries, Nigeria among others.²² The women who have experienced either sexual and or physical violence across the world from an intimate partner or just sexual violence from a non-partner stands estimated at 35 percent. Furthermore, there is an estimation of 70 percent of women who have faced sexual violence or physical violence from an intimate partner in a lifetime as some national studies show. Higher rate of depression, contracting HIV, and

²¹United Nations Office on Drugs and Crime (2018). Global Study on Homicide 2018, p. 10.

²²Osita, C. (2004) Human Rights in Africa. Lagos: Macmillan publishers, Nigeria

having abortion is reported on women who have faced sexual intimate partner violence or physical abuse in contrast to women who have not undergone through such brutality.²³

In Kenya, violence has been practised within historical and cultural context. Historically, men's dominance was the norm and standard. Husband's beating their wives was just normal in the case where they 'misconducted' themselves. Women were and still are subject to male supremacy which is forced to them through violence against them. This however does not dispute the fact that women facing violence in Kenya has been reducing over years; this can be accredited to numerical increment of women who are educated and are working. It is evident that women who have jobs can run away from GBV than women who solely depend on their husbands for provision. The increase in independent women has also increased the number of men who face GBV. This is because, when women are aware of their rights, they can fight even extremely, to protect those rights henceforth awareness of one's rights should also come with responsibility. Study also shows that 38%, of ever-married women have ever experienced physical domestic violence compared to 9% of ever-married men.²⁴

Violence against women in Kenya is not only associated with many negative social, psychological, physical and health problems that afflict women, their families and society as a whole but also, is a major burden to the state. Despite the increasing acceptance of violence as an important risk factor for a wide range of health problems among women in Kenya, very

²³World Health Organization, Department of Reproductive Health and Research, London School of Hygiene and Tropical Medicine, South African Medical Research Council (2013). *Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence*, p.2.

²⁴KDHS (2014) Kenya Demographic Health Survey. KNBS, Nairobi.

little attention has been given to the subject, making it very difficult to understand the causes, magnitude and consequences of such violence.

However, some members of communities associated with FGM as a form of GBV protest the laws on FGM in the sense it interferes with their right of culture. The practice is painful and has negative consequences to victims including violation of their international human rights. Social consequences include discrimination of girls in their own community. The state is obliged through the legal framework to protect young girls and women from detrimental traditions and cultures such as FGM. A majority of organisations and institutions have also argued that banning of FGM has not eliminated the problem but has instead escalated it; where the practice is performed in high levels of secrecy and in most risky situations because when the practice results to haemorrhage, the parties responsible will hide the victim for fear of taking her to hospital and end up being reported at the police. FGM is still being practiced and only a few cases have been reported hence not noticeable by the relevant authorities. Critics argue that legislative responses have not worked and have worsened the practice of FGM. It has led to death and complicated the situation as people fear going to hospitals when problem occurs for fear of prosecution. The rate of school drop outs amongst girls have also risen due to the practice, leading to early marriages and early pregnancies as in some communities FGM gives a license for irresponsible sexual behaviour as girls are considered mature women who can engage in adult activities.

The concern about GBV surrounding FGM is pegged on health repercussions and standards as per the human rights on the victims. FGM amounts to an intolerable infringement of the

privileges of both any adult women partaking of it and the girl child to their normal sexuality. International human rights conventions give emphasis to the requirement of the United Nations member States to guarantee the supporting of human rights and the protection of the same rights; including the rights to the highest attainable standard of physical and mental health, and to integrity of the person.

FGM is also an aspect of gender -based violence. GBV surrounding FGM is a serious violation of international Human Rights. International Human Rights seeks to stop all forms of torture against all people directed to them by the practice of FGM. Most victims of GBV are also in most cases not aware of their inherent Human Rights, hence they continue to suffer in silence whilst acknowledging negative behavior directed towards them. Therefore, this study seeks to understand GBV and the international human rights surrounding it: a case of FGM in Kenya.

Although a society is supposed to be safe, majorly women and men have their safety violated. Apart from women being victimised and harassed, they also suffer both psychologically and physically. This becomes bad in some traditions due to the fact that they do not often have a voice, give their thoughts or shield their children as well as themselves as a result of fear of the repercussions hence do not make their own decisions on issues that even touch on their very own lives. As a result, some have been rendered homeless, some have been maimed through female cutting and suffered serious physical and emotional abuse. GBV and human rights violence still prevails in Kenya but is underreported as many victims do not turn in their tormentors so that action could be taken against them by relevant

authorities. Out of the total number of victims that have borne the brunt of GBV only 35 percent seek redress of some kind. The most likely reported kind of abuse arises from the physically violated and sexually violated. The reason for under reporting is often because most victims seem to lack sensitisation and also the fact that many of the victims do not know their human rights. When it comes to the locality of the occurrence, it has been found out that most of the GBV occur in rural areas as compared to the urban centers; at least when we go by the statistics that are available to us. Whereas 31 percent of women in the urban centers report such violence, 36 percent is recorded from their counterparts in the in the rural areas.²⁵ GBV causes psychological distress. The psychological distress is not any small problem as it causes the victims to lose touch with reality. Once one has lost reality within the surrounding it means such a person cannot make informed decisions that would help them and others and would therefore be unproductive.

The other effect of GBV is the fear of infliction to the victim. This is because the victim of such violence, if not rehabilitated properly through concerted counseling, would forever think that any advances would lead to violence and would not be free to intermingle with the fellow humans. This fear often occurs as a result of constant flashbacks that the victims would be subjected to; flashbacks being one of the effects of GBV. This then cascades into emotional numbness, anger, and obsessive thoughts. Of great concern is the fact that GBV may result to unwanted pregnancy. This comes when the victim is subjected to rape as a form of violence and this rape subsequently leads to conception of a child which was not planned for. This may result to early motherhood in cases where the victim is underage. Lastly, not

²⁵Kenya Bureau of Statistics. (2010) Report on the Socio-Economic Module Kenya Bureau of Statistics. The Kenya National Household Survey 2005/06. Nairobi, Kenya: KBS.

the least, GBV can also cause miscarriage or forced abortion especially when couples engage in physical violence when they are expectant or when an expectant lady is assaulted physically.²⁶ GBV is also an increasing major challenge in the form of resource sharing and emancipation of a society.

In Kenya 49 percent of women reported to have experienced violence in their lifetime; 48 percent of women and girls reported being abused physically while they were young, 46% reported one or more episodes of sexual abuse. Over 60 percent of these remained mum of such criminal occurrence. Only 12 percent who had been physically or sexually abused reported to someone in authority such as a village elder or the police. It is also noted that 25 percent of 12-24-year-old were forced into losing their virginity. Reports from Nairobi Women Hospital (NWH) indicate that averagely 18 cases of FGM and incest are received daily. It is reported that girls form the majority statistically; 60 percent of female gender who have gone through such harsh treatment of violence reported it at first encounter with FGM between 6-12 years and 24 percent between 13 to 19 years.²⁷ Although the government of the Republic of Kenya has crafted laws and regulations that ensure that GBV and contravention of human rights is minimised in Kenya, it still exists.

The concern about GBV surrounding FGM is based upon degrees of human rights and the health consequences on the victims. FGM comprises an unacceptable desecration of the rights of the female forks to their accepted sexuality. The International human rights covenants underscore the obligations of the United Nations member States to warrant the

²⁶WHO/WHD/FRH. (2008). World Report on Violence. Geneva: World Health Organization.

²⁷UNAIDS: Violence against Women and Girls in the Era of HIV/AIDS: A Situation and Response Analysis in Kenya, June 2006, p 6

safeguarding and ensuring the ethical handling of humans with dignity. This should be devoid of any form of discrimination or malicious harm that may cause deformity or death. Within these parameters, the conventions therefore expect the human race to enjoy all forms of human rights that would ensure that every ones' dignity is preserved. Such a person is therefore expected to lead a life of integrity and attain appreciable life of sound mental and physical health that would help them cope in the society.

When GBV is meted on an individual who then suffers its effect, then it means such a person will not lead a life of integrity and attain appreciable life of sound mental and physical health that would help them cope in the society.

This research paper therefore, seeks to address GBV as a violation of human rights, by critically analysing the case of FGM in Kenya by bringing out the areas where FGM is still rampantly practised so that the government agencies, and NGOs that are tasked with fighting FGM not only in Kenya but Africa will put their emphasis in such areas in this resolve of eradicating this human rights issue.

1.5.3 Overview of Female Genital Mutilation

FGM practice has progressed from early times in an effort to establish control over women's sexual behaviour. There are many versions given of FGM, whose places of origin may not be traced with certainty. Genital mutilation is a time honoured and worldwide practice in different cultures. Several archaic practices might have existed in several locations globally to control female sexuality. FGM's origin is attributed to the ancient Egypt where it was a

mandatory practice especially associated with ancient Arabs. This can be traced way back in history before record keeping that revealed the lives of the people in the middle belt of Africa. This makes it difficult to expressly note the country and place where first action took place. However, suggestion by professionals in doing documentations put the first case of FGM to have occurred in 25 B.C.²⁸

The most radical form of FGM, infibulation that the Somali population carries out is fondly known as the pharaonic type. The start of the practice is attributed to ancient Egypt from where it is deemed as the place it was borrowed. The Egyptians carried out this practice of FGM like a norm as they were under the ancient cultures of the Phoenicians which they acclaimed to be their model. The Hittites are also accredited with the practice due to the association with both the Egyptians and the Phoenicians. This actually indicates the importance of cultural assimilation that has ever been witnessed among countries or communities that cooperate in one area or another. Another cut that is also common among them is the pharaonic cut which is more popular among the Muslim population in Africa.²⁹ But this is not known to most states that are populously Muslims such as Saudi Arabia, Iran, and Iraq to name but a few. Hence, FGM as an Islamic culture cannot be singled out with certainty in its Islamic origin.³⁰ FGM has also been reported in countries such as Indonesia, Israel, Malaysia, Thailand, Iraq and UAE. FGM practice also, has a growing number in North America, Europe and New Zealand due to immigrants in these countries.

²⁸Lightfoot-Klein, H. (1989). *Prisoners of Ritual: An Odyssey into Female Genital Circumcision in Africa*. New York: Harrington

²⁹El Sadaawi, N. (1980): Zed.

³⁰Abdi, S. M. (2007). A Religious Oriented Approach to Addressing FGM/C among the Somali Community of Wajir, Population Council/Frontiers. Kenya

In African countries, rural areas boast of reporting higher cases of FGM where it seems to be more prevalent in relation to urban areas. Such statistics are reported in countries such as Côte d'Ivoire, CAR, Benin, Uganda, Tanzania, Niger, and Mauritania. Some statistics show that there is no much difference in both urban and rural rates as far as the prevalence of FGM is concerned. The states that show no difference or just a slight difference in the urban and rural presentation of FGM include Guinea, Mali, and Eritrea. On the flipside, there are still countries where prevalence of FGM is more in the urban setup as compared to the rural areas. The three countries with such statistics include Nigeria, Sudan, and Burkina Faso. Whereas, there is no explanation given for such statistics, it is believed that the urban centres in such countries grew as a result of culture assimilation and that is why the cultures could not be relinquished as the people acquired them rather than being subjected to them by force.³¹ In Mali, 90% or more of women in different regions have undergone FGM in comparison to 10% or less in Timbuktu and Gao. In Tanzania, FGM has been in high prevalence in Arusha, Dodoma and Mara with 81%, 67% and 43% respectively.³²

Women who have attained higher education rarely opt for FGM in African countries. However, education has not caused this to happen in some countries as it is seen that women from such countries as Guinea, Mali, and Egypt still cling to FGM. In this case, education has not been expressly applauded as a check to unnecessary cultural practices such as FGM.³³ This is a departure from many observations and beliefs held that there is more likelihood that daughters or mothers who have proper education are less likely to partake in FGM than daughters of mothers with little or no education.

³¹ Namulondo, J. (2009). Female in Uganda. Master in Human Rights Practice. Roehampton University

³²WHO (2006). Lancet, 2006, 367:1835-1841.

³³ Kiarie, M and Wahlberg, J. (2007) University of Applied Sciences

In Kenya, According to KDHS 2008/2009 the ratio of women that have undergone circumcision appreciates with the increase in age, from 15 percent of women age 15-19 to 49 percent of that age 45-49.³⁴This means that many older women have undergone the cut as compared to the younger ones. This trend therefore shows that the number of the women who goes for the cut decreases by time. It would have been a worrisome trend if the number of the young women who go for the cut were higher than the older ones. It means that, if proper efforts were put in place, this number would reduce drastically because the younger generation will shun the practice. Another important statistics in the country show, that there is a higher ratio (31%) of women in the rural areas than the ratio (17%) in urban who have been subjected to this practice. FGM varies tremendously by province. The representation of the circumcised women in terms of proportion ranges from 1 percent in Western province to 98 percent in North Eastern province.³⁵

1.5.4 Human Rights context of Female Genital Mutilation (FGM)

FGM involves all undertakings that comprise inflicting injury or altering the female genitals for no basic medical motive and is recognised worldwide as a desecration of the human rights of the female gender. FGM is not only a form of human rights violation, but a discrimination against all women and girls of any age who is being subjected to it. Apart from being rooted in harmful gender cultural norms which are archaic and should be shelved, it is actually a form of torture, an explanation that qualifies it to be classified as an extreme form of violence. The very reason that this practice has been enshrined in many traditional norms as their way of life makes it to be perceived by many, as the way of life. This has

³⁴Kenya Demographic Health Survey (2014). CBS (Kenya).

³⁵Oloo, H, Wanjiru, M. and NeWell-jones (2011). Female Genital Mutilation Practices in Kenya: The Role of Alternative Rites of Passage: A case study of Kisii and Kuria Districts. Nairobi

made many people look at it in the lens of not being a violence as it is an acceptable norm. This has caused the entrenchment of FGM practice to peoples' way of life rather than an international human rights violation that needs to be fought. The practice of FGM has culminated to gender inequalities in the societies that still rampantly practice it. As FGM, serves to limit many opportunities to girls and women who might be forced to forfeit such opportunities due to, for instance, lack of education especially when one is subjected to early marriage after having undergone through the process.

Since 1948, FGM has been an issue in the United Nations framework making the world body to make pronouncement that FGM is a detrimental practice to the female gender.³⁶ International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) condemn any discrimination bordering on sexual exploitation or sexual harassment and thereby, entreat the need for respect of the rights of persons and for the protection of health.³⁷ This gives every person the right to lead a respectful life devoid of constant abuses and that is why anybody found perpetrating the vice is liable to answer to legal questions as to why such could be allowed to take place.

Several International and regional treaties, like the United Nations world conferences and summits recognises human rights and call upon all governments to give full respect, protection and fulfillment to women and girls. The International and regional human rights treaties include; Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment forbids the infliction of physical or mental pain or suffering on

³⁶United States Department of State, Ethiopia (2001): Report on Female Genital Mutilation.

³⁷Ethiopia: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC).

women, The Committee on the Elimination of All Forms of Discrimination against Women, the Committee on the Rights of the Child (1989) and the Human Rights Committee have condemned the act and provided measures such as criminalisation of the practice of FGM and obliged member states that are signatories to protect their own nationals from harmful practices such as FGM. The Committee on the Elimination of All Forms of Discrimination against Women, NO 14, takes into cognizance that every effort should be put in order to ensure that any uncalled for practice that might impact negatively on the lives of women were dealt with in a manner that addresses the importance of observing human dignity to both gender; not only the observance of male dignity alone. Thus any practice that would violate the right of the women would be eradicated.³⁸

Some of the consensus documents on combating the infringement on human rights in the practice of FGM include; Beijing Declaration and Platform for Action of the Fourth World Conference on Women, General Assembly Declaration on the Elimination of Violence against Women, Programme of Action of the International Conference on Population and Development (ICPD) United Nations Economic and Social Council (ECOSOC), Commission on the Status of Women and Resolution on Ending Female Genital Mutilation E/CN.6/2007/L.3/Rev.1.³⁹ These documents are strongly supporting the safeguarding of the rights of female gender to shun FGM as a practice due to the fact that it is infringing on the well-entrenched human rights and principles that should be guarded jealously. The documents advocate for the norms and standards that would ensure that women; regardless of their age, social status, or education standards enjoy equal rights even as their male

³⁸Ethiopia: Report on Female Genital Mutilation (FGM) or Female Genital Cutting (FGC).

³⁹<http://www.who.int/mediacentre/factsheets/fs241/en/>

counterparts in the society. This is due to the fact that cruel or torturous, inhumane treatment that are associated with GBV especially FGM on the part of female gender, deny them the cherished human dignity. In some instances, the procedures like FGM become fatal and cause death to the victims; this makes it a murderous procedure which should be abolished once and for all.⁴⁰

Convention on the Rights of the Child African Charter on Human and Peoples' Rights (the Banjul Charter) and its Protocol on the Rights of Women in Africa, African Charter on the Rights and Welfare of the Child, European Convention for the Protection of Human Rights and Fundamental Freedoms. These conventions mention FGM and prohibit its practice.⁴¹They urge different governments in the world to extend unwavering sustainment of efforts that the non-governmental, community organisations and religious institutions have initiated to eliminate the practice.⁴²This would go a long way in ensuring that the vice of FGM is dealt with in a manner that shows that every sector is against the practice hence very few would dare to go that route.

Efua Dorkenoo argued that female genital mutilation is a clear demonstration of gender-based human rights violation, which intends to control women's sexuality and freedom.⁴³ The International Human Rights law including the Universal Declaration of Human Rights (1948) champions the right for all human beings to enjoy life as they live a life that is

⁴⁰Rahlenbeck S, Mekonnen W and Melkamu Y (2010). *Reprod Biomed Online* 20:867-872.

⁴¹United Nations. (2001) Report of the Fourth World Conference on Women, Beijing 4-15 September 2001. New York: United Nations.

⁴²Rahlenbeck S, Mekonnen W and Melkamu Y (2010). 20:867-872.

⁴³United States Department of State, Ethiopia (2001): Report on Female Genital Mutilation.

dignified laced with good health care.⁴⁴ FGM procedures are accompanied with consequential secondary effects such as women's mental health and the whole physical wellbeing. This is because most often, the procedure is carried out outside health care or clinical facilities and performed by quakes "professionals" that use unsterile instruments that would automatically lead to infections.⁴⁵ This has often caused serious health problems such as infections, clitoral cysts, tumors, abscesses, and haemorrhages that if not controlled immediately often cause the demise of such victims. Therefore, putting someone through such unnecessary health risks in the name of following cultural norms especially in a situation where proper medical facilities and good hygienic conditions were lacking could be termed as a travesty for justice and a violation of that person's right in unequivocal terms. This is due to the fact that in normal tradition/ cultural norms, lack of proper health hygiene.⁴⁶

1.5.5 Legal Framework prohibiting FGM in Kenya

A legal framework in Kenya dates back in the colonial era. African countries practiced FGM as a form of initiation into womanhood, sexual control, cultural and ethnic identity.⁴⁷ Missionaries based their argument on the Christian faith that the act was sinful, brutal, barbaric, oppressive and medically and hygienically undesirable.⁴⁸ In 1929, several agencies of European decent, African bodies, missionaries, and government attacked the practice of FGM. Jomo Kenyatta, former president of Kenya, defended FGM and used it as a tool for national resistance, as a sign of his commitment he took an oath to defend his country

⁴⁵United States Department of State, Ethiopia (2001): Report on Female Genital Mutilation.

⁴⁶Elisabeth R (2006). *JCSW* 22:23-36.

⁴⁷ Ibid

⁴⁸ Ibid

and culture including FGM.⁴⁹Kenya efforts to curb FGM revived in 1980s. President Moi issued a ban prohibiting FGM making it a criminal offence, but communities still practice FGM secretly. Kenya adopted the UN Declaration on the Elimination of Violence against Women as a national plan to eradicate FGM.⁵⁰

Kenyan parliament enacted the children Act in 2001 that criminalised FGM/C on any female below 18 years as such the Kenyan law regards as minors. Sec. 14 of the Act argues that a minor will not be subjected to any form of mistreatment or abuse as such subjections would impact negatively on their social welfare and general lives which will intern ruin their psychological or physical development and their dignity. Sec. 18 of the Act spells out a conviction of a fine not exceeding Ksh.50,000 and/ or an imprisonment of 12 months for those found perpetrating FGM/C. Section 119(1)(h) underscores the need for good health and proper education to every child who is in need for protecting against FGM. FIDA – Kenya suggests a review of the Children’s Act, which should take center stage in sensitising the mass at the community level so that they get involved in issues that protect laws that guard against infringement on the rights of humanity; such as creating sustainable ownership of the process, while paying specific attention to sections 14 and 119 (I)(h).⁵¹

In addressing the inadequacies of Children Act, Kenya enacted the prohibition of FGM Act 2011, chapter 62b of the Laws of Kenya. It states that, to safeguard against violation of a

⁴⁹ Ibid

⁵⁰ M Faiza, protecting Girls from Undergoing FGM/cut : The Experience of Working With the Maasai Communities in Kenya and Tanzania (Pafido Enterprises 2011)

⁵¹FIDA Kenya (2009). Protection Against Female Genital Mutilation: A Review of the Implementation of the Children’s Act. Lessons from Samburu and Garissa Districts. Federation of Women Lawyers Kenya (FIDA Kenya). Nairobi

person's mental or physical integrity through the practice of female genital mutilation and for connected purposes. It recognizes FGM as a violation of human rights and criminalises it.

The Sexual Offences Act 2006 is an Act of Parliament that prohibits any form of wrong sexual overtures or activities. The Kenya Sexual Offences Act No. 3 of 2006 has also prohibited subjecting women and girls to FGM as stated in Section 29 on cultural and religious sexual offences, delimits the rights of anybody; on cultural reasons or religious obligations to force one into taking part in any cultural practice that would be detrimental to their health. In an event where such a person goes ahead to carry out such an offense, then the person is liable to be charged in a court of law and would be convicted of that offence for duration of not less than ten years in jail. The Sexual Offences Act (No. 3 of 2006) is special in the fact that it spells out the penalty that the offender must face thus leaving the Magistrate with no option but to slap the offenders with the penalty that is spelt out in the Act.⁵²

In the Bill of Rights under the constitution of Kenya, it interprets FGM as a human rights violation. Section 44 (1) gives the right of participation in one's cultural life and the use of a language as a means of communication to be used by the person as they choose. However, it curtails this freedom of language by delimiting a person from compelling even those against the practice to partake of it against their conscience. Section 44 (3) prohibits one to be subjected to any form of rite or cultural practice that the person has no inclination to partake thereof. Section 53 (1) demands for the protection of every child from any harmful agent that could be hazardous to the child. Subjecting such a child to harmful traditions or any violence act or neglecting such a child such that they do not get basic necessities is prohibited in the

⁵² Ibid

sight of the law. The constitution points out the right of individuals to follow cultural practices if they are not harmful. The promotion of social justice and preservation of every individual's dignity are the very basics of human rights and the fundamentals of freedoms. Article 20(4) calls for court or any legal tribunal to promote (a) the values upholds a democratic society that respects human dignity, equality, equity and freedom; and (b) the spirit, purport and objects of the Bill of Rights.⁵³

The FGM Act established a board known as the Anti-Female Genital Mutilation Board under part III of the Act which has diverse function: coordination of education awareness programs; advise the government on matters relating to FGM; provide unwavering support to agencies, institutions, and other bodies involved in eradicating FGM; facilitates resource mobilisation for programs and activities involving FGM. The Kenya National Human Rights Commission does not uphold FGM, neither does it condone several abuses being inflicted on female gender that include FGM, early and forced marriages and test performance in their virginity.⁵⁴

Currently most domestic violence is domiciled in the Penal Code Chapter 63 of the Laws of Kenya. Most cases are prosecuted under this Penal Code. This law takes cognisance of crimes such as assaults, murder, grievous harm, and attempted murder among the likes. Article 157 of the constitution establishes the Office of the Director of Public Prosecutions (ODPP) which gives the DPP powers of prosecution. As part of this, ODPP has set up an

⁵³GOK (2010): Republic of Kenya : The New constitution; Government Printers

⁵⁴ Kenya National Commission on Human Rights (2012). Realizing Sexual and Reproductive Health Rights in Kenya: A Myth or a Reality? A Report of the Public Inquiry into Violations of Sexual and Reproductive Health Rights in Kenya

FGM unit to deal with prosecution of offences under the FGM Act. The prosecution counsels are drawn from regions, either by posting or ethnicity that is largely considered to be prone to the practice. The National Police Service (NPS) Act, 2011 supports the provisions of the constitution and helps in the investigations and prosecutions of crimes. It outlines the powers and functions of the NPS. It provides for the establishment of the Directorate of Criminal investigations. The role of NPS is crucial in tackling offences related to FGM.

1.5.6 Impact of Gender Based Violence in relation to FGM

Gender violence causes many health impacts to the female gender of different ages that are exposed to FGM, to the families who have also been subjected to domestic violence or have exhibited health complications and abused.⁵⁵ Children may have difficulties in school relating with others and find it also problematic to inculcate some close relationships and friendship. Sometimes these children run away or commit suicide.

The victims (female gender) who have been exposed to FGM or abused are more likely to take part in risky behaviours; especially early sexual intercourse, risk of contracting STDs and getting early pregnancies. Major complications may develop as a result of abortions and due to fear and shame faced in schools, the young girls drop out of school and are forced in to early marriages or become street children.

FGM may result to death if it is not done correctly. The use of the same cutting instruments or tools in the act may transmit HIV & AIDS which may also lead to early deaths if

⁵⁵UNICEF. (2000) Causes of domestic violence in Kenya: domestic violence against women and girls. Innocenti Digest No 6. Innocenti Research Centre.

medication is not accessed. The United States Department of Justice put in the public domain that medical complications resulting from FGM could range from hemorrhage and sterility to severe psychological trauma.

Child marriage is an infringement of human rights, thwarting the girls development in two facets; physically and psychologically that most often than not result in early pregnancies and social isolation. Young married girls therefore, end up grappling with arduous household commitments, constrained decision-making and limited life choices. Gender based violence also causes a kind of mental disorientation called the borderline personality disorder, which is characterised by some queer behaviours such as propensity to have suicidal thoughts, self – mutilation, being promiscuous; a situation that deters one from sustaining relationships and the victims constantly exhibit some sort of childhood trauma. In a 2003 survey of 6,000 grown up women who had faced violence of any kind were likely to report eating disorder of any kind as compared to others who have not undergone through such ordeals. Furthermore, such victims who have survived child molestation or abuse have reported complication of obesity nature or experiencing morbid obesity.⁵⁶

FGM is known for its long-term impacts which include urethra damage which comes with a secondary effect known as urinary incontinence, infibulation cysts, it also comes permanent pain during intimacy, difficulty during child delivery, sexual dysfunction, and keloid scar formation. In event that operation is conducted in non-aseptic conditions and/or even sharing apparatus, the victims become susceptible to contagions such as HIV & AIDs and tetanus.⁵⁷

⁵⁶WHO/WHD/FRH.(2008).World Report on Violence. Geneva: World Health Organization

⁵⁷ UNICEF-Somalia/SACB-Health Sector/UNIFEM (2001). Nairobi.

Psychological impacts of FGM include Post Traumatic Stress Disorders (PTSD) and depression among others. WHO⁵⁸ identifies early marriages, lack of education, and lack of employment on the part of the victims in the formal sector leading to poverty and domestic violence by those close to them such as their husbands who are sometimes unable to provide for the family.

1.5.7 Summary of Literature Review and Knowledge Gaps

Gender Based Violations is an endemic social problem in many countries around the globe. In several states and cultures globally, both gender (men and women) have borne the brunt of traditional practices that do not help but subjected them to an array of negative health inflictions such as physical, sexual, and psychological cruelties and brutalities by people with whom they should enjoy the closest trust and feel safe when near them. Despite being a major cause of physical and emotional impairments among women and men, Gender violence remains an invisible social crisis.

Knowledge on FGM is imperative in the provision of important information that could augment the fight against FGM brutality. It is also important ensuring the assistance in coming up with appropriate counseling services that would help in curbing psychological tribulations. The outlawing of FGM has contributed in its being culminating in some die-hard lawless people practicing as an underground deal that also calls for its medicalisation; monitoring FGM trends thus becomes difficult because of the mentioned underground deals. This is a conviction that, there should be proper information as regards to the African countries where the vice is still entrenched and seems deeply prevalent so that more energy

⁵⁸ Ibid

be put in place toward addressing the issue in that country by governmental institutions and NGOs.

It is crucial therefore, for this present study to look into the present gender -based violence as an issue of international human rights in Africa with a special focus on FGM in Kenya.

1.6 Justification of the Study

In this section, various reasons are given so as to better understand why it is necessary to carry out this study. The section is divided into general, academic and policy justifications.

- General justification

This study will be crucial in helping the general public understand the impacts of FGM as an international rights issue and its effect on the social welfare of females (both young and old) in Africa. International and local arena treaties have always been key in curbing FGM among women and girls in Africa. This study will provide information on human rights violation associated with FGM in Africa, Kenya being a case study. The comprehensive knowledge that will be obtained from this study will enable people to respond to right based approach interventions and strategies issued together with the policy and legal frameworks on FGM as a form of GBV as far as the areas where this practice is still rampant.

- Academic justification

This study is crucial as it aims at adding to the existing knowledge as in the observation of the assessment of International human rights violations associated with GBV in Africa with a special focus on FGM in Kenya. It will be beneficial as it will address the gaps that exist in

FGM literature as a form of GBV. The study also aims at analysing theories that will help scholars in their debates.

- Policy justification

The findings of this study will help programme advisors to formulate effective strategies towards addressing the problem of female genital mutilation and help to develop programmes aimed at meeting the demand of family values through the provisions of appropriate method mix. This study will assess FGM as an international rights issue in Kenya which would form a basis for implementation by various stakeholders and service providers to help in reduction of the practice of FGM.

1.7 Theoretical Framework

This study will be guided by John Galtung theory (1969); and The Social Conventional Theory. The two theories are discussed in the succeeding paragraphs.

1.7.1 Galtung's Theory

Johan Galtung devised this theory as that of violence based on the acknowledgment that direct personal violence that take different forms such bar brawls or international war is only one of three natures which violence assumes. Galtung also informs that violence can be defined in terms the harm it inflicts, and what human needs it limits. FGM has limited many needs of victims; education being one such needs. Just as direct violence hamper the need of bodily and psychological integrity; it applies also with structural violence. This encompasses basic resources such as love, free movement, good health, the need for sleep, and nutrition, among other such important daily engagements of a normal human being. Besides, there are

classical human rights such as need for mobilization, freedom of expression, need for work, among others. The nonmaterial needs are also given special notice by pointing happiness, friendship, self-actualisation and solidarity as the main ones which need to be met.⁵⁹ Structural violence in Human Rights in another key aspect⁶⁰ as it identifies the underlying structural elements of torture which is experienced by women undergoing FGM.⁶¹

People often overlook nonviolent agitations such as peaceful rebellions or triumphs of connections, movements, and collaborations while choosing to tell stories which reports and thus choose to glorify military victories and wars. This is because many cultures have casually treated mass killing; whereby killing a person is called murder and killing that involves police taking many lives of innocent people are often referred to as people caught in cross-fire. When many are killed in their ten, hundreds, or thousands in a declared conflict then, then it is called war. Johan Galtung's tends to explain that the main cause of violence is an unequal distribution of resources which should otherwise be distributed to everyone equitably if not equally. This is because Johan Galtung's original definition included a lack of human agency; meaning that the violence is not a direct act of any decision or action made by a particular person but a result of an unequal distribution of resources.⁶² Even though FGM is not directly related to resources, traditionally the cultures that are still steeped in practising it encourage the young girls to undergo the rite so that they get married as soon as they are through with the initiation so that the families that they hail from get wealth through the bride price that shall have been acquired from the marrying off their daughter. The

⁵⁹Johan Galtung, "Typologies of Violence," in *Transarmament and the Cold War. Essays in Peace Research* Vol. VI (Copenhagen: Christian Ejlertsen, 1988), 271–272

⁶⁰Johan Galtung, *Human Rights in Another Key*

⁶¹*Ibid.*

⁶² *Ibid.*

problem is that Galtung fails to recognise the vast implications gender parity has for violence and peace as social practices.

1.7.1.1 The Relevance and Applicability of Galtung Theory

Galtung view of violence in different facets; Structural Violence, Cultural Violence and Direct Violence, helps in seeing FGM as tactics of capitalist and social imperialism – a reason that perpetrators use to inflict harm so that they may gain something out of it (structural violence). It also helps in looking at FGM in the lenses of cultural violence that does not serve to entrench anything good but serving the ego of culturalists who only think of stigmatisation of families who fail to adhere to such archaic practices. Lastly, as a direct violence, the vice is channeled to women who must face ridicule whenever they fail to adhere to FGM. The theory is thus applicable in the sense that it gives the researcher an insight in helping correct the notion that FGM is beneficial, culturally acclaimed, and a crown of honour that must be worn by all women in a community.

Galtung's theory has been likened to an iceberg; the direct violence is only the tip of what we see whilst the structural and cultural are what we cannot see, yet, they are the greatest force behind direct violence. Structural and cultural violence are deeply entrenched in humanity, and for us to address direct violence (FGM), we need to deal first with the structural and cultural violence.

1.7.2 Social Convention Theory

In coming up with this theory, Mackie and Le Jeune⁶³ sought to explain how gapping inequalities in social aspects like education, gender, societal class, and general craving to improve one's position in the socio-economic order may contribute to several injustices that boarder on these differences. These are the sources that form the social conventions. The theory was first applied to help understand the cultural practices and the harmful traditions like foot binding done in Chinese communities and FGM⁶⁴. This means that the two proponents identified FGM as one of the dehumanising practices that boarder on gender discrepancy. This implies that males cannot tell the pain that the female counterparts have to undergo in FGM because they do not have the slightest idea of the ordeal.

The social convention theory helps in looking at the norms of some communities in carrying out some of the practices that they have to contend with. In nearly every community that carries out FGM, it is a conception that a young girl who has borne the brunt of FGM is expressly a virgin and would increase her chances of getting a good marriage in a good family. It is seen as likelihood of such a girl getting a good marriage. This therefore, makes the convention of cutting the genitals of these females as expressly accepted social norm that no family would want to violate and suffer ridicule and stigmatisation.

1.7.2.1 Relevance and Applicability of the Social Conventional Theory

It is agreed that social conventions held by a community can only be demystified through approaching from the perspective of social convention such that everyone is brought on

⁶³Mackie, G and Jeune, J (2009). Social Dynamics of Abandonment of Harmful Practices: A New Look at the Theory, UNICEF Innocenti Research Centre, Florence, Italy.

⁶⁴ Ibid 63

board. This means that, to end such social convention, a consensus must be reached such that a decisive mass of population made by families in a community is allowed to publicly relinquish such practice. It is only when a community or different communities give up on an archaic practice that, individual families or heads of such families believe it is acceptable and not injurious to their status not to embrace FGM. Therefore, this logic underpins different organisations that campaign against FGM identifies intervention programmes, which will culminate in a community visibly and collectively declaring their abandonment of FGM⁶⁵. This means that the approaches that the anti-FGM crusaders must adopt should encompass sensitisation, advocacies, and education that capture the beliefs of the wider community.

Social Convention Theory is applicable in the current study as it would help in achieving organised diffusion through information sharing, debate, and persuasion through existing social networks and familial ties. This would help in demystifying the attachment to FGM as a compulsory cultural practice.

1.8 Hypotheses

H1: Female Genital Mutilation as a Gender Based Violence is still more rampant in Kenya in comparison with other countries in the world.

H2: FGM is extensive in Counties where Traditional cultural beliefs are still rampant

H3: Right based approach intervention strategies will be successful in addressing FGM in Kenya.

⁶⁵ Ibid 63

1.9 Research Methodology

The methodology that was used in the study was presented in this section as seen in the successive sub-titles.

1.9.1 The Design

The study employed mixed method research that covered both the qualitative and quantitative approach. The study will triangulate between qualitative and quantitative methods. Qualitative research focused on people's experiences and data was obtained through interviews and observations and open-ended questions.⁶⁶ Qualitative research was primarily exploratory research aimed at understanding the relationship between collected and observation and was established on the basis of mathematical calculations. It gave immense insight into how the variables were related and also helped to build ideas or hypotheses for potential quantitative research. Quantitative was used on the basis of statistical conclusions in collecting actionable insights and the numbers provided guided the researcher in making sensible conclusions. Mixed method approach deals with the weakness, limitations and shortcomings of both qualitative and quantitative approaches. It ensures neutrality and minimum bias.

This research design was employed to evaluate GBV and international human rights question: a case of female FGM in Kenya.

⁶⁶Frankfort-Nachmias, C. and Nachmias, D. (2008). *Research Methods in the Social Sciences*, 7th ed. New York: Worth.

1.9.2 Target Population

The target population was drawn from a wide geographical area since Kenya has different communities practicing FGM. This means that the research took samples from the 47 counties in the nation; making the country as the geographical scope. Ideally the researcher travelled to all these communities in different counties to be able to get access to a bigger sample group from NGOs/ institutions dealing with FGM. The researcher came up with a purposive sampling design where she sampled 4 Institutions or NGOs that deal with the problem of FGM across the 47 counties. The target population included administrators or leaders of the institutions - NGOs, INGOs and Anti-FGM board officials. For every four administrator samples from the 47 counties a total of 188 respondents were recruited making the population size to be 188. The information is captured in Table 1 below

Table 1: Sample Size Distribution

Name of population	Sample Design	Size of target population (counties)	Size of sample per county	Total Sample
Administrators	Purposive Sapling	47	4	188
Total		47		188

1.9.3 Research Sampling Procedure

The study used only one sampling technique – purposive. The researcher used a purposive sampling in identifying the institutions that handle issues of FGM. This involved identifying the institutions with a jurisdiction of a particular geographical area as its administrative boundaries within every county. Since there was already existing information concerning the list of the institutions dealing with GBV in the counties, in the headquarters, the researcher constructed a list from which a purposive sample was used to select four respondents from which the data was collected. The researcher used the purposive sampling which is a non-probability one because the researcher had to use her own judgment to identify respondents for the study.

1.9.4 Data Collection

This study entailed the use of both primary and secondary data collection method. While questionnaires and interview guides were used for primary data; books, journals, International and national treaties on human rights, documents on FGM and preexisting

materials were used for secondary data (archival data). This was specifically applied to the first objective that looked into issues related to FGM internationally in comparison to Kenya. Primary data was gathered using questionnaires which were designed for the administrators of the institutions.

1.9.5 Data Analysis

The quantitative data were analysed using descriptive statistics namely frequencies and percentages. The qualitative data from interviews were analysed using content analysis in the thematic areas as presented by the objectives. This kind of analysis helps in the location of certain words or concepts within texts or sets of texts. This can be drawn from secondary data as well as primary data both of which the study relied on.⁶⁷

1.9.6 Data Presentation

The quantitative data from questionnaires were analysed and presented using SPSS such as descriptive statistics mean scores and standard deviations frequencies distributions and percentages.

1.10 Chapter Outline

This study is divided into six chapters which include the introduction and the conclusion. The content of each chapter is as follows:

Chapter one

⁶⁷Cooper, D. R., & Schindler, P. S. (2008). Business research methods (8th Ed). New Delhi: Tata McGraw-Hill Publishing Company. India

This is the introductory chapter of the study and introduces the entire proposal. It includes the study background, the statement, and part of justifying the study, the hypotheses, literature review, the theoretical framework, methodology and the chapter outline.

Chapter two

This chapter looked into gender - based violence especially FGM and how they have been handled across the globe. This means that the chapter was presented in a deductive manner such that it takes avails the works and information in Europe, US, Asia, Africa, East Africa, and finally Kenya. The chapter thus, enables the researcher to look into how the issue of FGM has been handled in different areas of the globe and compare it with what is happening in the country so that such deduction helped the researcher in coming up with inferences and conclusion as far as this objective is concerned.

Chapter three

This chapter gave literary documentations on FGM prevalence in Kenya giving detailed information on some of the indicators of violence on women who are subjected to FGM. For instance, FGM is violence because it is meted on the victims who may not be willing to undergo the right, it denies the victims the right to go on with their education; it leaves both psychological and physical marks on the body and life of the victims.

Chapter four

This chapter focused on appropriate Right Based Approach intervention strategies in addressing FGM in Kenya as a form of GBV and on the possible solutions to the various challenges identified within Africa pertaining FGM.

Chapter five

This chapter presented the results of the collected data, analysis and debate of the findings. It dealt with the analysis of data collected. It also focused on the area where the researcher intends to contribute to the existing knowledge on gender-based violence International human rights question in Africa.

Chapter Six

As the concluding chapter, it summarises the entire study and the key points that were raised in the other chapters. This chapter also made recommendations that may assist gender- based violence and the international human rights question in Africa: A case of Female Genital Mutilation in Kenya.

CHAPTER TWO

GLOBAL LOOK OF GENDER BASED VIOLENCE; FEMALE GENITAL MUTILATION

2.0 Introduction

This chapter is designed to look into gender- based violence and how it has been handled across the globe. This means that this chapter looks at it in a deductive manner such that it avails the works and information from Europe, US, Asia, Africa, East Africa, and finally Kenya. The chapter thus, enables the researcher to look into how the issue of FGM has been handled in different areas of the globe and compare it to what is happening in the country so that such deduction helped the researcher in coming up with inferences and conclusion as far as this objective is concerned. This means that, this section helps in literature review as far as the objective is concerned; it is also used in drawing up a conclusion because it is the point at which archival data is concerned.

2.1 FGM Prevalence in Europe

2.1.1 UK

One major point in the government of UK under Teresa May is the grand plan that was drawn to check on the Gender Based Violence was a grant plan of 2017-2020 that received an allocation of £2.5 million.⁶⁸ This targeted a venture across five London regions that work with Local Government Association (LGA) National FGM Centre, hospital based FGM clinics and social workers, and to the Barnardo's.⁶⁹ The aim of such centers is the provision of social care expertise through skilled social workers that is a highly specialised team with

⁶⁸UK Government. (2016). Violence against Women and Girls Strategy 2016-2020. Press Release.

⁶⁹ Ibid

unmatched elaborate know-how of working with victims who are at risk of FGM. In addition to that the UK government has also launched a £3 million national FGM Prevention Programme in conjunction with NHS England intended to improve response to FGM that is health-based and in addition actively support prevention of such vices.⁷⁰

Apart from this grand plan, the UK government underscores the importance of research and has for sure allocated hooping £25 million flagship research and innovation programme that was mooted to take place globally. The research was slated to run between 2013 and 2018 and was christened “What Works to Prevent Violence”.⁷¹ This was to generate a body of evidence which would hence forth inform new prevention programmes. This was done after realizing that it was through applying data analytics principles to wedge war against violence against women and girls (VAWG) to support targeted interventions.

Statistically, a survey by Equality Now and City University in 2014 put the figure of survivors of FGM who live in UK at over 150,000. This captured the ages between 15- and 49-years women. The same report further reveals that there are 1,000 FGM sufferers or victims who are arriving in the UK every 2 years⁷². This is an indication that the population living with FGM is now substantial. The statistics presented shows that the UK deals with victim migrants who come to the country. It means that the vice is not actually expressly practiced in the country.

⁷⁰ Ibid71

⁷¹ Ibid71

⁷² Ibid71

2.1.2 Italy

Female genital mutilation is prohibited in Italy under its Law no.7 of 2006 Provisions concerning the prohibition and prevention of the practice, which identifies the rationale of the law as setting “procedures essential to repress, thwart, and battle the vice of FGM as infringements of the fundamental privileges of the integrity of the person and the general health of children and women.”⁷³ Just like UK, Italy also has data which show the number of immigrants that come to the country as victims of FGM. The actual data of the indigenous victims that might have faced the cut in the country is not given.⁷⁴ This makes an assumption that indigenous Italians do not practice FGM but the number of immigrants that suffer from the vice is given as 60,000 to 80,000 by 2016. These are victims over the age of 15. The number of FGM cases in Italy is less compared to that of UK.

2.1.3 France

Article 222-9 of France’s Penal Code punishes FGM/C under “acts of violence causing mutilation or permanent disability”. It stresses on the strong action that must be taken on the violators of human rights in France. This gives FGM victims some protection because practicing FGM is a violation of human right. It is reported that the cases of FGM are related to the migrants who carry their traditions of female circumcision from their country of origin many of whom come to the country after having gone through the practice. The total percentage of the women who have gone through FGM is 4.5%. Meaning it is low compared to other European countries. What can be deduced from these data is that there is seriousness as far as FGM matters are concerned in European countries because even though this practice

⁷³ Ortensi, L., Farina, P., and Leye, E. (2018). 2016 survey data.

⁷⁴ Ibid.

is not endemic to the part of the world, they keep relevant statistics and put in place laws that put a check to the practice.

2.2 FGM Prevalence in America (US)

It is important to note that The United States has both state-level laws and national-level legislation prohibiting FGM/C. Despite the legislation, according to American Center for Disease Control there were 507,000 US women (both young and aged) who have experienced the pain of going through the FGM or some type of female genital cutting. This was public health report that was released in 2012. These are not indigenous US females but immigrants who come from countries where FGM is practised. As at now the number is estimated to have increased to 1.4 million girls and women in US who have undergone FGM. This shows that even if there is concerted effort on the campaign against FGM migrants are still crossing the US border

2.3 FGM Prevalence in Australia

The prevalence report on FGM in Australia is put at approximately 53,000 women who were born elsewhere and came to Australia as the victims of the cut.⁷⁵ This is an estimation of 0.4% of the overall population of the women in Australia. It is noted that Australia is one of the countries that have outlawed the issue of FGM. However, there are few cases of FGM practice that takes place in the country. This is because the report talks of children whose parents hail from countries where FGM is still rampant thus, subject their girls to FGM when they want to travel to their countries in order to fulfill all righteousness as far as the

⁷⁵Australian Government (2019). Report – FGM cutting in Australia.

traditional norms of the cradle land are concerned.⁷⁶ The report gives 10% of such cases in Australia. This tend to be a higher population as compared to the case of US because 10 percent of the women cannot be such a small population.

2.4 FGM Prevalence in Asia

One thing which seems to be out of the ordinary to the fight against FGM is that Asia is the only continent where FGM is legalized. Even though the FGM is related to Islamic practice, it is not mentioned in Quran and across the world, not all Muslims practice it. This means it is only the Muslims in Asia that see it as a good practice and thus legalizing it. FGM in Asia is thus related to drivers such as religion, culture, tradition, and social pressure among the people that practice it.

2.4.1 India and Pakistan

FGM is legal in both Pakistan and India with 50% of women in both countries reported to have undergone the cut which is known as Khatna among the Dawoodi Bohra women. Though the practice is legal, there is a campaign in the two countries that is christened “a pinch of skin” that works toward eradicating the Khatna. It is an online movement that started in 2011 and is gaining popularity in the two countries.⁷⁷

⁷⁶ Ibid77

⁷⁷UNICEF (2016). Female genital mutilation/ Cutting: A statistical overview and exploration of the dynamics of change. Report of 2016

2.4.2 Iran

Just as any other country in Asia, FGM is legalized in Iran. The legalisation notwithstanding, there were released a Fatwas (decrees) in 2009 by clerics that ban FGM. However, the prevalence status of the country is reported at 40.85% among the females.⁷⁸

2.4.3 Malaysia

Malaysia seems to be the country that has the highest FGM prevalence at an estimated percentage of 93.5% of women that have partaken in FGM. Even though the country's position on the practice is known as legal, the country's health ministry has called for a need to standardise the practice by ensuring that only medical doctors execute the practice.⁷⁹

2.4.4 Indonesia

Indonesia is one of the Asian countries with high prevalence of FGM which is estimated at 70 to 92 percent. The practice is reported to be legal and not mandatory but the top Muslim cleric body (MUI) upholds FGM as morally recommended.⁸⁰

2.4.5 Oman

Oman is also a state among the Asian ones that experience elevated pervasiveness of FGM that is estimated at 78 percent of the females. The main reason given to the soaring predominance rate of FGM in Oman is that it has a high rate of approval from both sexes.

⁷⁸Ibid

⁷⁹ Ibid

⁸⁰ Ibid

The two major areas where it is being practised in the country are in both South and North of Oman.⁸¹

2.4.6 Iraq

The total prevalence of this practice is relatively low, when looked entirely, as compared to the others that have been discussed. The national prevalence is 8 percent. However, of the mentioned prevalence, the Kurdistan of the country seems to be the leading group in the practice as the report indicates that 50 percent of the female in Iraq are the Kurdistan.⁸² This has alarmed the Iraqi Kurdistan to mount a campaign against it by creating a hotline in 2012 in the Middle East for the women facing the cut. Because FGM is seen as a normal thing in Asia, the other countries whose prevalence has not been captured also do practise it only that it is not as prevalent as the others that have been presented.

2.5 Prevalence of FGM in Latin America

Much data is not available in other South American countries as pertains to this vice of FGM. This may be as a result of non-practice of the same. However, Colombia has been singled out as one country in the South America that cases of FGM have been reported and statistics given.⁸³ Even though UNFPA⁸⁴ gives an indication that there is no authentic data as far as the actual prevalence of FGM in Colombia is pegged, it is estimated at 250,000 girls and women have been victims of FGM - the cut. The practice is associated with the Embera tribe; whereby some even ensure that a girl child is circumcised immediately after birth. From the

⁸¹ Ibid

⁸² Ibid

⁸³<https://www.unfpa.org/news/silent-epidemic-fight-end-female-genital-mutilation-colombia>

⁸⁴ Ibid

data provided, it shows that Latin America is within the threshold of eradicating the practice; more so by the fact that only one tribe in Colombia is associated with the practising of FGM. The good thing is that the practice is not recognised by any law in Latin America making the eradication of the vice to be not so much a herculean task.

2.6 The prevalence of FGM in Africa

According to the available data, it can be reported that FGM is rampantly practiced in Africa. This fact does not mean that the practice is legalised in Africa. In fact, all the countries now have legislations that criminalize FGM. UNICEF goes on to explain that at least 125 million females alive have faced the cut in Africa as far as FGM is concerned with at least 30 million at risk of undergoing the same ordeal⁸⁵. From the authentic report, Somalia is the country where FGM is mostly practiced across the globe at 98 percent of her women population being victims. It is followed by Guinea which has a prevalent of 97 percent. Djibouti is third in prevalence with a percentage of 93 percent. Egypt, Sierra Leone, Mali, Sudan, and Eritrea follow in that order.⁸⁶

Kenya takes the lead in terms of FGM prevalence among her East Africa counterparts. The prevalence in Kenya stands at 27 percent of women population as compared to Tanzania 15% and Uganda 1%. This give Kenya a challenge to work toward ensuring that the prevalence is far much reduced in order that it compares with that of the neighbours or better still, it be

⁸⁵file:///C:/Users/user/Downloads/FGMC_SOM.pdf

⁸⁶UNICEF (2016). Female genital mutilation/ Cutting: A statistical overview and exploration of the dynamics of change. Report of 2016.

totally eradicated. The report shows that in Kenya 9.3 million women (young and old) have taken part in FGM. This is the figure that is represented by 27 percent. The information above, as per the prevalence of FGM in Africa, is summarised in the figure below

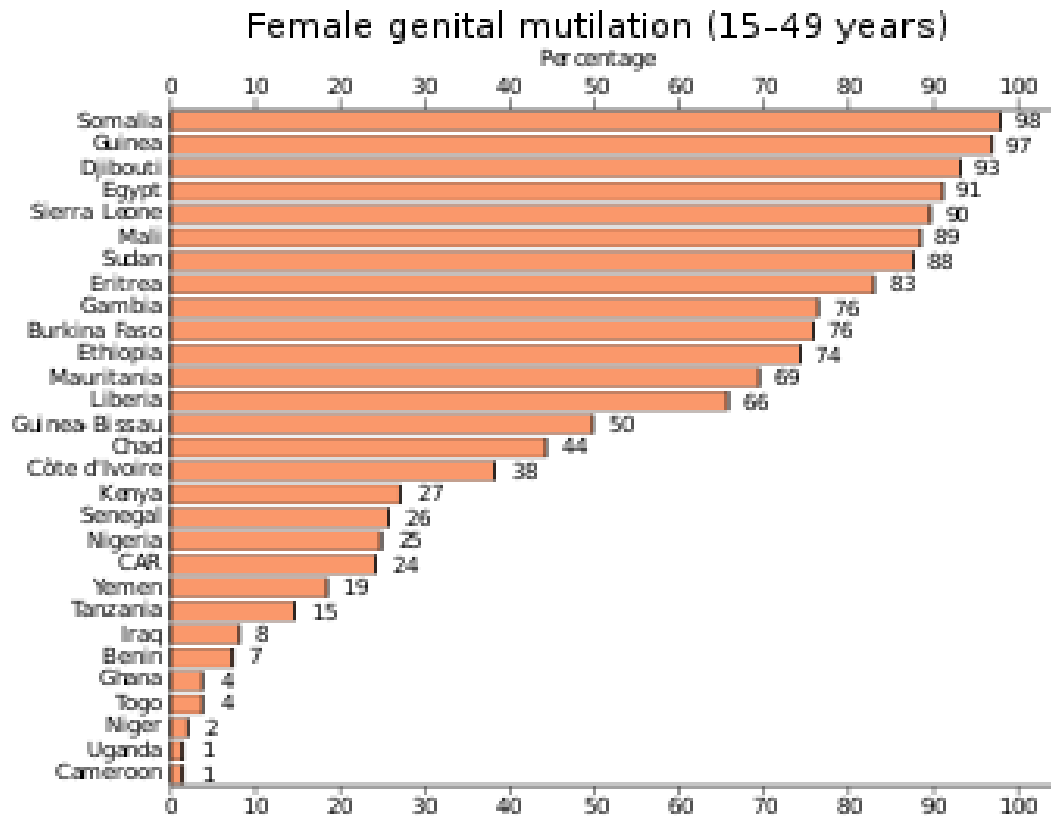


Figure 1: Female genital mutilation

2.7 Chapter Summary

The study established that globally FGM is illegal in the entire European continent. The practice's prevalence in the continent is only reported among the immigrants in the continent. The same applies to the United States of America. However, the only country that has recorded the presence of FGM in Latin America is Colombia; for the rest, there were no FGM cases. There is uniqueness with Asia due to the fact that the researcher has established it, as the only continent where nearly all the countries still legalise FGM. It has thus been

established that prevalence of FGM is quite high in a number of countries in Asia. On the other hand, even though FGM has been illegalised in Africa; many African countries still practise it rampantly. What has come out also, is that the practice is rampant in African countries that ascribe to Islamic faith. The study found out that Somalia was the most affected country by having the highest cases of FGM at 98%. Followed by Guinea (97%), Djibouti 93%, Egypt 91% and Sierra Leone 91% as the top five most affected countries. It was also found out that FGM was mostly practised in countries where Islamic faith is core religion.

CHAPTER THREE

PREVALENCE OF FEMALE GENITAL MUTILATION PRACTICE IN KENYA

3.0 Introduction

The chapter discusses some of the indicators of violence on women who are subjected to FGM that are pointers to its prevalence in Kenya. It looks at some of the literature that have that touch on FGM in Kenya as well as the efforts that have been put in order to address the issue. Apart from that, it looks at the impacts of the scourge on the lives of FGM victims within Kenya.

3.1 Why the Prevalence

The most relevant question why FGM remained prevalent in Kenya should be the ‘why’ question. This concern can be traced back to African traditions and culture which enabled people to be dedicated to their observance. According to Bettina, Gathara, and Moore⁸⁷ this practice is rampant in different ethnicities in Kenya, such as the Meru, Kikuyu, Kisii, Kalenjin, Embu, Maasai, and Pokot among others. In the advent of colonialism, the colonial master therefore wanted such kind of cultures to be abolished. This put them on the warpath with freedom fighters who wanted the practice to continue as a matter of defiance to the colonialists.

So, FGM was used as a symbol of cultural loyalty and at the same time a defiance tool against European colonialism. This meant that it had a different significance to the proponents and that is why it gained more acclamation and prevalence in Kenya as opposed

⁸⁷ Bettina, S., Gathara, D., & Moore Z. (2017). Female genital mutilation/ cutting in Kenya Is change taking place? – Descriptive statistics from four waves of demographic and health surveys

to when it was not used as a defiance tool. The Kikuyu Central Association vehemently defended the practice and literally campaigned for it so that the Europeans may feel disrespected. Jomo Kenyatta who was a leader in this outfit out rightly stated that attack on this country's old traditions to disintegrate their social order and thereby hastens their Europeanisation.

Attainment of quality education is also an important factor that sensitises the mass on matters that touch on their lives. This means that lack of it may blind one to the realities of the dangers of FGM. It is reported that many communities in Kenya qualifies a young woman or girl who has undergone FGM as a mature one regardless of their ages.⁸⁸ This does not matter even when one undergoes this rite as early as 12 years of age. This actually denies such victims the insight of seeing the negative side of FGM because of the lack of discernment that comes with the attainment of education. This reasoning tallies with Bettina, Gathara and Moore⁸⁹ who from the study found out FGM is rampant in the Rural areas as compared to the urban centres. The percentage of acquisition of education in the urban centres is often higher than the acquisition of the same in the rural areas; this is deduced from the same study that also reported that respondents with no education had the highest prevalence.⁹⁰

According to UNICEF⁹¹ the prevalence of FGM according to tribe in Kenya include Somali, Kisii, Maasai, Kalenjin, and Kikuyu in a gradual presentation. This information is pertinent

⁸⁸ Ibid1

⁸⁹.Ibid 13

⁹⁰ Ibid 13

⁹¹ UNICEF (2016). Female genital mutilation/ Cutting: A statistical overview and exploration of the dynamics of change. Report of 2016.

to the current study only to the point of giving the statistics. However, it is specific to tribe. This means that a representative of the entire county may be lacking. The current study therefore fills this gap by taking a comprehensive look into the counties' representation as far as the FGM problem is concerned so as to give a picture of the whole scenario in the country county-wise.

There are several implications of the FGM that makes the victims to be identified within a community. These also make FGM termed as a violent act. The implications include forced initiations to the practice because it is meted on the victims who may not be willing to undergo the right, it denies the victims the right to go on with their education; it leaves both psychological and physical marks on the body and life of the victims. These are discussed broadly in the succeeding paragraphs.

3.2 Forced FGM

While other women find themselves reluctantly going to face the knife in what is termed as rite of passage in certain communities, some are totally not for it and would not want to be partakers of the same⁹². Many cases have been reported where young girls run for their dear lives to ensure that do not undergo the ritual just to appease the traditional adherences. Now there is no other violence than forcing a young girl to face a cut against her will. This means that there are cultures that are archaic and do not spell good for an individual or community thus causes havoc in the health of the individuals and the community at larger.

⁹² Ibid 2

Even though some of the victims reluctantly agree to undergo the initiation, it is still a violation of their rights to have part of their bodies intact. The traditional norms of the community where they live actually are manipulative because such community's agree that an uncircumcised girl would not be given to marriage and remains a taboo to the community. In some communities the girls who do not want to go through the initiation are outcasts and are regarded as misfits and bad omen to the community. This also is a violation of one's right; and thus a gender based violence because one has a right to belong to a community by virtue of birth or naturalisation. It is a question of self-will.

3.3 Forced from Education

It is reported that many communities in Kenya qualify a young woman or girl who has undergone FGM as a mature one regardless of their ages. This does not matter even when one undergoes this rite as early as 12 years of age. When such a thing happens, it denies the victims the right to go on with their education because she is regarded as a woman who should go into marriage. Education has been termed as the key to life; denying one access to education is therefore tantamount to denial of life.

Even though denial of education to the victim may not be seen as violence, it may as well be discussed under the gender- based violence as it results into lack of knowledge thus one become susceptible to other violations. It also goes against human rights because provision of education is one of the many rights that are enshrined in the UNESCO's universal call for universal provision of education.⁹³

⁹³https://en.unesco.org/sites/default/files/eng-gem2018_brochure_final_version-print.pdf

3.4 It leaves both Psychological and Physical Marks

Conventional psychoanalytic school of thought sees Psychological pain from an intrapsychic outlook. This school of thought emphasizes that the function of insensible progressions and guarding machineries is the scrutiny of behaviours; be they abnormal or normal ones.⁹⁴ Therefore, a person's psychological anguish in one's life can be defined by their endeavor to deal with the current intricacies of employing the use of precedent childhood defense mechanisms, which sometime come out as poor-adaptive and socially unsuitable for their current health condition.⁹⁵

There are many psychological distresses that come as a result of FGM. One such distress is the thought of constantly going through excruciating pain during child birth. Many women who have gone through the cut are cognisant of the pain that they must endure during child birth. This is because the birth orifice is always extremely narrowed because of the scarring that occurs during the healing of the wound caused by the knife. The scarring renders the virginal opening to remain rigid, thus denying it of its natural characteristic of elasticity during child birth. Such are the circumstances that normally trigger reoccurrence of bleeding of the mother making the mother to be constantly anemic. Such complications are also sure causes of stillbirths and miscarriages hence perpetuating psychological trauma to the mothers.

⁹⁴Kong F, Zhao J, and You, X. (2013). Self-esteem as mediator and moderator of the relationship between social support and subjective well-being among Chinese university students. *Soc Indic Res.* 112 (1), 151-161.

⁹⁵Caron, J., and A. Liu. (2011). Factors associated with psychological distress in the Canadian population: a comparison of low-income and non low-income sub-groups. *Community Mental Health Journal.* 47 (3): 318-330.

Another psychological trauma is the fact that the women who have gone through the cut see themselves as sexual objects not as mutual partakers of intimacy. This is because the rip-off of the clitoris denies them of the sexual enjoyment that come with the presence of this vital organ. This is the worst thing that should happen to a woman.

The physical traumas are also profound. The most noted long-term physical traumas include primary infertility, chronic pain, and keloid scar formation. These eventually leave permanent scars that translate to psychological trauma.

FGM therefore, is a violent act as it inflicts psychological and physical marks that are permanent in the lives of the victims.

3.5 Chapter Summary

It has been revealed that in the wake of colonialism, Africans were steeped on their traditions and cultures; some of which were detrimental to health – FGM being one such. This answered the concern “why”. People therefore were dedicated to the observance of these traditions and cultures. It has come out that the colonial masters were against such practices. In the advent of colonialism, the colonial master therefore wanted such kind of cultures to be abolished. This put them on the warpath with freedom fighters who wanted the practice to continue as a matter of defiance to the colonialists. The realization that the practice was found rampant in different ethnicities in Kenya, such as the Meru, Kikuyu, Kisii, Kalenjin, Embu, Maasai, and Pokot among others has laid bare that the practice was still ripe in the country. However, the study wanted to look at it in the view of county because there seemed that no clear records indicting prevalence per county countrywide; aside from tradition and

culture, Islamic as a religion has come out as the only religion that allows its members to practice FGM.

Another important aspect of life that seems to encourage FGM is lack of education. The literature has revealed that the percentage of acquisition of education in the urban centres is often higher than the acquisition of the same in the rural areas; this is deduced from the same study that also reported that respondents with no education had the highest prevalence. Apart from the reason “why” the FGM, The literature has revealed some of the repercussions that come with FGM such as violation of human rights of the victims through forced FGM, forced abandonment of education, and psychological and physical marks trauma.

CHAPTER FOUR

THE RIGHT BASED APPROACH INTERVENTION STRATEGIES IN ADDRESSING FGM IN KENYA

4.0 Introduction

This chapter focuses on the different approaches that have been employed across the globe in addressing GBV especially FGM. Under chapter four most important approaches have been discussed. The four include health approaches, human rights approaches, legislative approaches, and bodily and sexual integrity approaches. The importance of these approaches cannot be over-emphasized as they contribute greatly in ensuring the reduction or eradication of the gender-based violence.

4.1 Health Approach

Health is a vital aspect of life that every person is expected to be healthy. Indeed, health is one of the basic human rights that is enshrined in virtually all nations' constitution because it is a requirement by the United Nations.⁹⁶ The UN document calls for everyone to be accorded good health and treated dignifiedly. There are many practices that deprive one the right to healthy living and thus go against the dictates of the law.

There are far-reaching health implications of FGM one being infection during the actual procedure. This is due to the fact that this procedure is normally done in unsterile conditions; bearing in mind that it is prohibited in many countries.⁹⁷ This unsterile condition leads to serious bacterial infections such as tetanus or sepsis in time of pregnancy or after. Some of

⁹⁶ UN (2017). Report on Human Rights council. Twenty-sixth special session report.

⁹⁷Khosla, R., Banerjee, J., Chou, D., Say, L., and Fried, S. (2017). *Reproductive Health Journal*, 14(1): 59-125.

the immediate risks include hemorrhage that eventually may lead to the victim becoming anemic or dead. FGM is also, often associated with problems during urination especially with the severe type, infibulation. FGM victims are also prone to open sores in the genitalia.⁹⁸The process is always inhuman during its execution and turns to be traumatic as the victim is usually physically pressed down as the procedure takes place. This often leaves the victim with psychological trauma that may sink one to depression.

The most noted long-term health risks include chronic pain, primary infertility and post-traumatic stress disorder. It is worth noting that the procedure can lead to sexual disability on the victim and is also associated to stillbirths and miscarriages in women that have undergone the procedure. The ultimate problem in FGM is that it may lead to death.⁹⁹ The death may be on the victim as a result of excessive bleeding or the victim may lose her child during the process of giving birth as a result of narrowing of the vaginal birth orifice due to scarring of the cut/ mutilated part. It's important to note that the clitoris is a very vital organ that plays a pivotal role in sexuality of a woman. It is the epitome of sensation of as it is supplied with sensory nerves and blood vessels that trigger sensual irritability in time of sexual stimulus.¹⁰⁰ This means that, its mutilation renders the victim the extra excitement and arousal that come with sexual enjoyment.

Another of the health-based strategy especially in Africa is that women in Africa have adopted health sensitisation workshops for the victims to learn how to cope and for those

⁹⁸World Health Organization, (2000). A Systematic Review of the Health Complications of FGM, Department of Women's Health, Family and Community Health, Geneva, Switzerland.

⁹⁹ Ibid

¹⁰⁰ Ibid

who have not gone through the procedure to evade such procedures. Mostly the workshops and national campaigns aim at ending the practice - FGM. These campaigns contribute in explaining the consequences that have been discussed to the women so that they shun the practice altogether.

Another health approach is for the encouragement of the victims to report to the nearest health facility immediately such practice is meted on them. This would trigger immediate first-aid intervention so that life can be salvaged. The interventions also help the victims to get closer to NGOs where they can seek refuge in any case one would like to force them to undergo the procedure.

4.2 Human Rights Approach

Humans are physical, spiritual, political, and social beings; thus, have the natural ingrained aspiration to spiritually, physically, politically, and socially choose to have control of such situation as they wish. When this is achieved, then it is termed as freedom. This kind of freedom should not be infringed by others. Because when such freedom is infringed on, then the rights of the person is violated. The rights of women, especially the young ones have for a long time been violated as far as the FGM is concerned.¹⁰¹ This is because in some communities, even a girl-child has not grown well to know to differentiate what is best for her, they find themselves being forced to face the knife that mutilate their precious organ.

¹⁰¹Kalev HD (2004). Female Genital Mutilation. 51: 339-348.KDHS (2014) Kenya Demographic Health Survey. KNBS, Nairobi.

The UN, European Parliament, and many governments both in developed and developing world have come out to frame FGM as a fundamental contravention of the human rights of females who are in their prime and the girls.

Even though community empowerment can be categorised as one of the right based strategies, it is singled out in this study as one way of approaching the human rights strategies. For example cultural competency training can be used as a tool to improve health outcomes quality of health care that are rendered to the victims of FGM.¹⁰² For instance, the first programme aimed at prevention of FGM began in the mid-1970s where it laid emphasis in motivating and informing the communities about the adverse effects of FGM to the health of victims so that the taboo could be broken for good.

Save the Children and partners have been doing commendable job in Somalia. They have been supporting local NGOs in changing cultural discriminations of cutting as central to girls' rites of passage. They also help in finding alternate ways to upgrade the position and value of women in community and family units. These RBAs preserve communities' social values and cultural heritage while simultaneously shifting cultural beliefs away from FGM/C. Kenya as a country has allowed several NGOs to help in addressing this issue of FGM so that it can eventually be eradicated. For this matter there are internationally based NGOs that work directly or indirectly with locally based organisations and government institutions to expedite this issue of ending FGM¹⁰³. The four whose presences are mostly felt in the country include "28 Too Many" which carries out research through collating and interpreting

¹⁰² Ibid.

¹⁰³ Bettina, Gathara, and Moore D. (2017) Female genital mutilation/ cutting in Kenya Is change taking place? – Descriptive statistics from four waves of demographic and health surveys.

data guiding stakeholders as well as equipping local organisations working in Africa and other areas where the practice is rampant so as to bring it to check. It was started in England and Wales in 2010.¹⁰⁴ Another one is “Stop FGM.net” which is an Austrian initiative and works with Kenyan locals. It works with 30 nationals to ensure that FGM is eradicated from the countries which it has in partnership; Kenya being one of them. Forward is another NGO that works in the Europe and Africa through direct community engagement, advocacy, and strategic partnerships. Lastly is the global alliance against FGM which uses music, arts, and culture to advocate against any form of violence against women.¹⁰⁵

PMU Interlife Sweden, a partner to Free Pentecostal Church in Kenya, is also a key actor in the country in the fight against FGM. This organisation is funded by the Swedish government.

4.3 Legal Approach

Legislation helps in creation of laws that govern the country or the world on matters that pertain to an issue at hand. Legislations have been in place in regard to FGM that has led to many deaths and also maiming others. This is where the right to cultural practices end; and causes the limitations of cultural practices that even uphold such archaic practices as FGM to be checked. The importance of legislations cannot be over emphasised due to the fact that it is such legislations that give a people a certain defined way of living that they must abide by. This means that failure to live by such legislative would be tantamount to penalties.

¹⁰⁴<https://www.raptim.org/fighting-against-female-genital-mutilation/>

¹⁰⁵ Ibid.

International law enshrines the right to freedom of religion and cultural practices and thus endows such rights to anyone to participate in them.¹⁰⁶ However, the same international law places a caveat that fundamental rights and freedom of others must be protected so that they are not subjected to practices that are not healthy to their lives in the name of cultural practices. This therefore, shows that Article 4 of the International Covenant on Civil and Political Rights will not and cannot under any circumstances be revoked.

It is crucial to note that, the UN General Assembly resolution of 2001 that call upon states to put in place human rights pacts, gather and publicise data regarding FGM/C and those that prohibit the same; This was given a name General Assembly Resolution 56/128 (2001).¹⁰⁷ From this kind of legislation is where other likeminded laws emanate. Other resolutions under the UN General Assembly followed this. For instance, Resolution 61/143 (2006), Resolution 62/133 (2007), and Resolution 63/155 (2008) all focused on the elimination of all forms of violence against women.

Benin's legislation has not been lenient to the perpetrators of FGM. The law prohibits any other form of surgery performed on external genitalia of a female person. This is in Benin's law No 2003-3 on the Repression of Female Genital Mutilation and is against any exercise that touches on causing any physical alteration of female genital organ.¹⁰⁸ Burkina Faso is not left behind on this issue and it did it, a little bit earlier than Benin. Its Law No.43/96/ADP of 1996 on the Penal Code mentions total ablation, excision, infibulation, desensitisation or any other means (Article 380).

¹⁰⁶Khosla, R., Banerjee, J., Chou, D., Say, L., and Fried, S. (2017). *Reproductive Health Journal*, 14(1): 59-125.

¹⁰⁷ Ibid

¹⁰⁸ Ibid.

Near home, our neighbours the Republic of Uganda took the initiative on this quite some time back. The Constitution of the Republic of Uganda 1995 (Article 33.6) does not condone cultures and traditions that do not uphold human dignity; thus such practices are forbidden by this section of Constitution".¹⁰⁹ This law encompasses all ills that can be meted on women; FGM included. This means that Uganda took an early decisive measure on the protection of the rights of women so that they enjoy their human rights.

In Kenya legislation that prohibits FGM has been enacted. This is in Children's Act, 2001 (No.8 Of 2001, Section 18) that prohibits any form of cultural rites and traditional practices that impact the health, life, dignity, social welfare, psychological or physical growth of juveniles. Even though this legislation prohibits FGM, it concentrates on the child. Which means the young women who are above 18 are not protected by the legislations because the constitution of Kenya identifies anybody under age 18 as a child. This legislation therefore left loopholes that are exploited by others to force young women to undergo the cut.

Lately, Kenya has also enacted the prohibition of FGM Act 2011, chapter 62b of the Laws of Kenya this was seen as addressing the inadequacies of Children Act.¹¹⁰ It calls for a safeguard against violation of a person's mental or physical integrity through the practice of female genital mutilation and for connected purposes. This means that the legislation recognises FGM as a human rights violation thence criminalises it.

¹⁰⁹ Ibid.

¹¹⁰[https://www.28toomany.org/static/media/uploads/Country%20Research%20and%20Resources/Kenya/kenya_country_pr ofile_v3_\(july_2017\).pdf](https://www.28toomany.org/static/media/uploads/Country%20Research%20and%20Resources/Kenya/kenya_country_pr ofile_v3_(july_2017).pdf)

4.4 Bodily and Sexual Integrity Approaches

The FGM practice has been advanced by feminists as the antithesis of women's sexual expression and freedom because this group has glorified clitoris as a symbol of the same female sexuality.¹¹¹ Even as biologically explained, clitoris as an organ in females plays a pivotal role in sexuality of a woman. It actually, in conjunction with the brain, triggers the wave of sensation in the body of a woman as it is supplied with sensory nerves and blood vessels that trigger sensual irritability in time of sexual stimulus.¹¹² This means that, its mutilation renders the victim devoid of the extra excitement and arousal that come with sexual enjoyment.

Johansen¹¹³ thus argue that subjecting women to FGM will be lowering their sexuality and sexual power to be defined by the specific socio-cultural environment but not their will to have their organ as originally modeled for the receptive of the male counterpart during intimacy. Johansen's assertion is buttressed by findings in the FGM study that was done in UK where only minority of women who have undergone FGM said that they could still enjoy intimacy with their husbands during sexual encounter; majority reported that the encounter only caused them more physical and psychological pain¹¹⁴.

It is therefore, important to point out that every part of the body is important and there is a vital function that it plays within the body. This is why it is incumbent even to the Africans

¹¹¹World Health Organization, (2000). A Systematic Review of the Health Complications of FGM, Department of Women's Health, Family and Community Health, Geneva, Switzerland.

¹¹² Ibid

¹¹³Johansen, Hemmings, (2011). Tacking FGM Special Initiative PEER Research Full Report, Esmee Fairbairn Foundation, London, UK.

¹¹⁴ Ibid

and Asians who rampantly practice FGM to come to a realisation that the clitoris is important to women especially in maintaining their sexual integrity. The communities in the countries who still practice FGM take this message of the bodily and sexual integrity as a threat to their deeply held religious beliefs and conservative values regarding women's sexuality; a notion that should be demystified.

4.5 Chapter Summary

The study has highlighted some of the pertinent literature as concerns the different approaches that have been employed across the globe in addressing GBV especially FGM. From this, it has emerged that mostly used approaches include legal approach, health approach, human right approach, and bodily and sexual integrity approach.

CHAPTER FIVE

DISCUSSION OF THE FINDINGS

5.1 Introduction

The chapter presents the results pertaining to the data collected from the field as the primary data for objectives two and three and the data collected from the secondary sources as far as objective one was concerned.

5.2 Preliminary Analysis

The response rate stood at 64% due to the fact that the researcher managed to get feedback from 30 counties. This means that due to the fact that the study focused to sample four respondents (administrators) the total respondents sampled totaled to 120 out of 188. The researcher therefore, chose to consider the 64 percent turnout based on the assurance by Emmel¹¹⁵, who advised that it is appropriate to work with 46% turnout in the event of data apathy or disparity. The researcher therefore had a strong basis to work with the 64 percent response rate.

The general important characteristics of the respondents in the study is summarised as follows: The study found out that there were more females than males who worked as administrators in the organisations that deal with FGM. 73 percent were found to be females while 27 percent were males. On the respondents age it was found out that 12.5 percent

¹¹⁵ Emmel, N. (2013). *Sampling and Choosing Cases in Qualitative Research: A Realist Approach*. Sage Publishers.

represented “25 years and below”, 17.5 percent represented “26 – 35” years, 59.2 percent represented “36-45” years, and 13.8 percent represented above 45 years.

On the issue of work designation 81.4 percent of the respondents were managers while 18.6 percent were assistant managers. On work qualification, 65.1 percent agreed that they were gender specialists while 34.7 percent were not gender specialists. On academic qualification the result showed that 33.7 percent of the respondents had attained undergraduate degree level, 19.8 percent were Masters holders, 11.6 percent had a PhD degree while those having diploma in gender studies could were represented by 2.3 percent. The information above is represented by Figure 2 below.

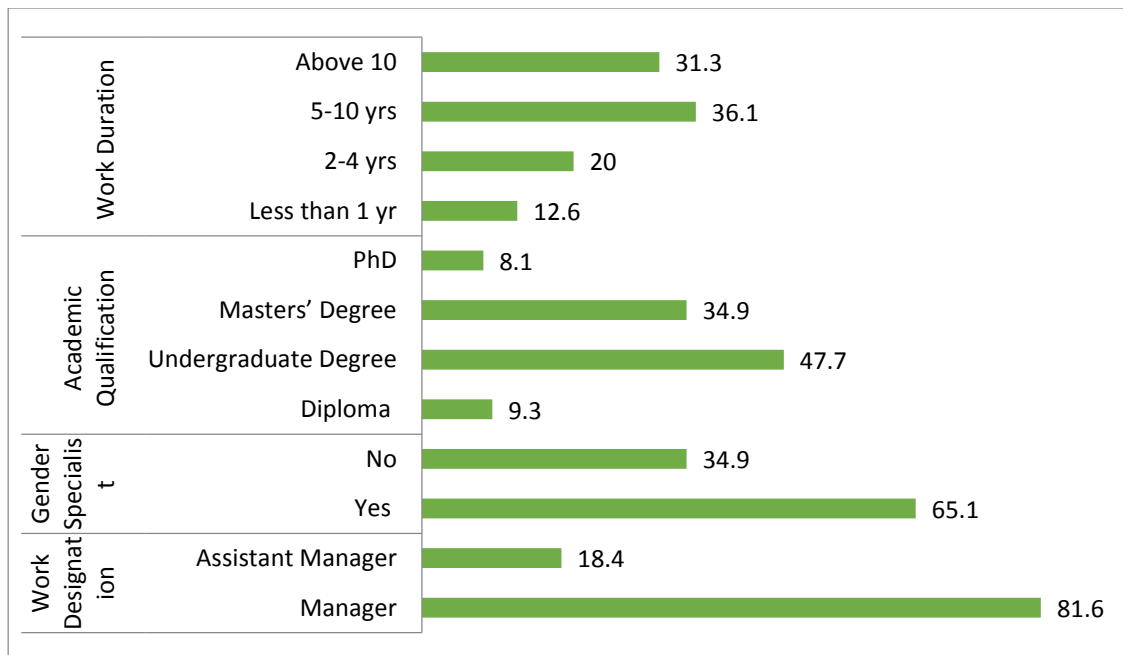


Figure 2: Work Related Characteristics

5.3 Global look of Gender Based Violence; Female Genital Mutilation

The first objective of the study was to look into the global Gender Based Violence with specificity to FGM. The interest of the researcher was to have at a glance the intensity of FGM in the global arena based on the continental representations and the legality of the practice.

The study established that globally FGM is illegal with only a unique exception of the continent of Asia where the practice is legalised in nearly all countries. The researcher held the view that there were no FGM cases in Latin America for the reason that there were no evidential documented facts on the availability of FGM except Colombia where low cases have been recorded.

The study also established that many cases of FGM have been reported in Europe; not as part of the practice by the natives but by the immigrants. The migrants might have gone to the Europe already circumcised or some who were still steeped on it were still subjecting their daughters to it. The study established that due to the illegality of the practice in Europe, the European governments were taking central position in rehabilitating the victims and dissuading them from such practice. The highest cases of FGM in Europe were reported in UK followed by France, then Italy as per the significant statistics that have been documented. What is encouraging is the fact that the UK government is stern on what may be called conventional FGM. This could be seen on the way the government has handled a case in which a medical doctor was alleged to have carried out FGM in the hospital.¹¹⁶

¹¹⁶ <https://www.bbc.com/news/uk-30886077>

The study revealed that FGM is also an illegal practice in US and Australia. The FGM cases in US were reported higher than Australia but lower than the ones in UK. The highest cases in FGM were reported in Asia because of the legality of the practice in the continent. The study found out that the rampant cases were reported in nearly every country in Asia whereby the highest prevalence was reported in Malaysia (93.5%) of women, followed by Indonesia (70-92%), Oman (78%), India and Pakistan (50%), Iran (40.85%), and Iraq (8%). Lastly in Africa, the study established that FGM is illegalised in every country but it was still rampantly practised in several countries. The study found out that Somalia was the most affected country by having the highest cases of FGM at 98%. Followed by Guinea (97%), Djibouti 93%, Egypt 91% and Sierra Leone 91% as the top five most affected countries. It was also found out that FGM was mostly practised in countries where Islamic faith is core religion.

5.4 Trends on the Prevalence of Female Genital Mutilation in Kenya

The second objective of the study was to evaluate the prevalence of Female Genital Mutilation in Kenya. The interest of the researcher was to have at a glance the prevalence of FGM on the basis of the county. The response rate of the left the researcher with 30 counties namely Nairobi City, Mombasa, Kisumu, Nakuru, Bomet, Machakos, Kajiado, Narok, Tana River, Kwale, Garissa, Wajir, Marsabit, Mandera, Isiolo, Makueni, Kiambu, Turkana, West Pokot, Samburu, Nandi, Baringo, Nyandarua, Embu, Meru, Bungoma, Siaya, Kisii, Nyamira, and Migori. The findings were then presented under five thematic concerns namely: the services that the organisations offer to the victims of FGM, the approximate number of cases the organisation handles annually, the number of victims who end up in early marriage, the

death rate as a result of FGM in a year, and the reasons behind the victim taking part in the ritual.

5.4.1 The Services Offered by the Organisation

Much as the four familiar options that the organisation normally offer to the victims, the outstanding that came out solely was that the organisations offered counseling and rehabilitating the victims through sending them back to school. This was common in Bungoma, Siaya, Wajir, Marsabit, Baringo, Migori, Nakuru, Bomet, Embu, Nyamira, and Samburu. The counties that offered all of the three services included Nairobi City, Mombasa, Kisumu, Machakos, Kajiado, Narok, Tana River, Kwale, Garissa, Mandera, Isiolo, Makueni, Kiambu, Turkana, West Pokot, Samburu, Nandi, Nyandarua, Meru, and Kisii.

5.4.2 Number of Cases Handled Annually

In order to know the prevalence of FGM cases in every county, the researcher wanted to evaluate the number of the FGM cases that are being handled by the organisations. On this matter, the results were as follows: the highest cases reported annually were recorded in Isiolo 46 percent reported cases above 20, Kajiado 23 percent reported cases between 16-20, Kisii 14 percent reported cases 11-15, Narok 13 percent reported cases 6-10, the remaining counties reported annual cases of below 5 and are reported as others. The report given above is presented in the Table 2 below.

Table 2 Number of Cases Handled Annually

County	% of Respondents
Isiolo	46
Kajiado	23
Kisii	14
Narok	13
Others	4
Total	100

5.4.3 Number of Cases that ended in Early Marriages

In order to know the prevalence of FGM cases that have resulted into early marriages in every county, the researcher wanted to evaluate the number of early marriages that have resulted from the FGM cases of which the organisations were privy. On this issue, the results were obtained as presented in Table 3 below: in Kajiado 37 percent reported above 20, in Narok 23 percent reported cases between 16-20, Isiolo 21 percent reported cases 11-15, Kisii 16 percent reported cases between 6-10, and others which had 3 percent reported below 5 cases.

Table 3 Number of Cases That Ended in Early Marriage

County	% of Respondents
Kajiado	37
Narok	23
Isiolo	21
Kisii	16
Others	3
Total	100

5.4.4 Number of FGM Cases that ended in Death

In order to know the prevalence of deaths as a result of FGM cases, the researcher evaluated the number of deaths that have resulted from the FGM cases of which the organisations were privy. On this issue, the results were obtained and presented as follows in Narok 33 percent reported above 20, in Isiolo 27 percent reported cases between 16-20, Kajiado 19 percent reported cases 11-15, Kisii 15 percent reported cases between 6-10, and others which had 6 percent reported below 5 cases. The results were organized as in Table 4 below.

Table 4 Number of FGM Cases that ended in Death

County	% of Respondents
Narok	33
Isiolo	27
Kajiado	19
Kisii	15
Others	6
Total	100

5.4.5 Issues Surrounding FGM

The last thematic issue under this objective was to evaluate the reasons that a victim of FGM would consider or might have compelled her to partake on the ritual or the practice. This issue was generally analysed among the 120 respondents not a must as per county. On the issue that the victims partook on the ritual because were compelled by their mothers who have also gone through the same 57 percent of them agreed “Yes” that they went through the ritual because their mothers also went through the practice thus luring them to partake on same; which means on this 43 percent of them did not go through the ritual because of the influence by the mothers; their response “No”.

On the issue whether the victims went through the ritual voluntarily because they wanted to conform to the norm, 34 percent of the respondents affirmed by “Yes” while 66 percent disagreed by responding ‘No’ as they did not agree with the ritual. The government of Kenya is still grappling with this voluntary FGM as some women were charged in the court of law

for undergoing the practice.¹¹⁷ On whether the victims were literally forced to take part in FGM, the respondents 62 percent of the respondents reported that the victims were being forced while 38 percent responded on the contrary by reporting “no” by giving some other reasons.

5.5 The right based approach intervention strategies in addressing FGM in Kenya

The third and last objective of the study was to look into the right based approach intervention strategies in addressing FGM. The interest of the researcher was to have at a glance the right based approach intervention strategies used by different organisations in addressing Female Genital Mutilation in Kenya. Under this objective, the researcher had two thematic issues to analyse; the first one being the known major categories of right based strategy and the second thematic being the various ways in which the organisations have handled the FGM cases.

5.5.1 Right Based Strategy adopted by the Organisation

In order to know the most adopted strategy that the organisations use in addressing FGM cases, the researcher identified four common approaches in order to evaluate which is the mostly used in Kenya as per the different organisation sampled. The right based strategies included human rights approach, health approach, legal approach, and body and sexual integrity approach. The findings were reported as follows: the mostly used approach was health approach which recorded 32.5 percent. The health approach issue will remain a

¹¹⁷ [https:// e/2001341007/five-women-jailed-for-3-years-for-getting-circumcised](https://e/2001341007/five-women-jailed-for-3-years-for-getting-circumcised)

controversial one because a medical researcher Dr. Tatu Kamau who has gone to the high court to have it legalised in the country due to its health benefits as she argues.¹¹⁸ The legal approach recorded 28.3 percent, human rights approach recorded 27.5 percent, and body/sexual integrity approach recorded 11.7 percent.

5.5.2 Various Ways the organisations handled the FGM Cases

In order to know the various ways in which the organisations handled the FGM cases, the researcher six statements which pointed on how the FGM cases could be addressed. The researcher organised the statements in a likert scale table form whereby she wanted the respondents to respond by ticking: 1–Strongly disagree, 2 - disagree, 3 –Don’t know, 4 – Agree, 5 – Strongly Agree. The statement that ‘Most victims know that it is their human right to refuse taking part in FGM’ reported a Mean of 2.33, SD 1.342, Mode 1 and + skewness of 0.806. The statement that “Entrenched traditional cultures thwart the fight against FGM” reported a Mean of 3.68, SD 1.278, Mode 5, and skewness of -0.743. The statement that “Legal action is normally taken on traditional circumcisers” reported a Mean of 2.98, SD 1.338. Mode 3, and skewness of 0.061. The statement that “It is hard for the majority of the FGM victims to appreciate their sexuality” reported a Mean of 2.8, SD 1.376, Mode 1, and a skewness of 0.033. The Statement that “The organisation takes part in rehabilitation of victims especially schooling and counseling” reported a Mean of 3.38 SD of 1.421, Mode 5, and Skewness of 0.386. The statement that “This organisation normally partner with other

¹¹⁸<https://www.standardmedia.co.ke/article/2001346968/fresh-controversy-on-fgm-pits-science-against-popular-belief>

international organisations in addressing FGM” reported a Mean of 2.40, SD 1.198, Mode 2, and Skewness of 0.613. The results were then presented as appearing in table 5 below:

Table 5 Various Ways the Organisations Handled FGM Cases

Statement	1	2	3	4	5	M	SD	Mode	Skewness
15. Most victims know that it is their human right to refuse taking part in FGM	35.0	28.3	18.4	5.8	12.5	2.33	1.342	1	0.806
16. Entrenched traditional cultures thwart the fight against FGM	10.0	6.7	22.5	27.5	33.3	3.68	1.278	5	-0.743
17. Legal action is normally taken on traditional circumcisers	20.0	14.2	30.0	20.0	15.8	2.98	1.338	3	0.061
18. It is hard for the majority of the FGM victims to appreciate their sexuality	26.7	13.3	25.8	21.7	12.5	2.80	1.376	1	0.033
19. The organisation takes part in rehabilitation of victims especially schooling and counseling	15.8	10.8	23.3	20.0	30.0	3.38	1.421	5	0.386
20. This organisation normally partner with other international organisations in addressing FGM	25.8	35.0	19.3	13.3	6.7	2.40	1.198	2	0.613

5.6 Discussion of the Findings

The fact that 73 percent of the respondents were found to be females could judge by the researcher that it was a good show in the fight against FGM due to the fact that female knew best the pain that FGM victims were going through. The female could relate well with the pain of the victims of FGM. This finding also tallied well with the age of the participants because the majority of the administrators were still you (especially in the child bearing age

as per female respondents). 12.5 percent represented “25 years and below”, 17.5 percent represented “26 – 35” years, and 59.2 percent represented “36-45” years; making a total of 86.2 percent of respondents being youthful and if female can relate to pains of FGM and pain of child bearing and delivery. The findings that 81.4 percent of the respondents were managers showed that the institutions were committed to their duties and could not delegate their duties to their assistants. This showed that they had their eyes on the prerogatives that were expected of them. On their professional/ academic qualification, 31.4 percent were having masters’ degree and above showed that the organisations were governed by professionals. This issue of professionalism was important because it would be supposed to inform relevant decision to be taken for handling the victims as far as the on the right based strategies were concerned in saving the lives of the victims. This attests to the fact that health approach took the most applied approach that the respondents sought first; the mostly used approach was health approach which recorded 32.5 percent. The administrators know best which approach to adopt first before any strategy.

As per the international issue and handling of FGM the literature showed prevalence in Asia and Africa. The international community plays an important role in addressing FGM. This was confirmed by the qualitative approach where the sampled respondents pointed out the positivity on how the international community responds to FGM tackling. This was in line with the open ended question which sought to know “How has the response been of the international community as far as tackling FGM in this county?”

As per the prevalence concern of FGM in Kenya the investigator evaluated the number of FGM cases that are being handled by the organisations. On this matter, Isiolo recorded 46 percent who reported cases above 20 per year, Kajiado 23 percent reported cases between 16-20 per year, Kisii 14 percent reported cases 11-15 per year, Narok 13 percent reported cases 6-10 per year, the remaining counties reported annual cases of below 5 and are reported as others. These findings indicated that Isiolo County is the county with the highest prevalence in Kenya which has borne the brunt of FGM. This fact can be attributed to the fact that majority of the inhabitants of Isiolo being adherents of Islamic faith; and according to UNICEF¹¹⁹ Islamic adherents accept FGM as part of their practices even though it goes against the human rights. Isiolo is mostly inhabited by Somalis who practise Islamic faith. The aspect of culture can also be attributed to the fact that FGM is still rampant in Kajiado County. UNICEF still points that archaic cultural practices that are rampant in Kajiado is to blame on the high rate of FGM issues in the county. The same issue of culture applies to the other two that have registered high percentage – Kisii County and Narok County. Looking on open ended question “In your view, what has been the trend of FGM in this county where you operate?” majority of the respondents pointed out that the trend is that where traditional cultures are still observed strictly, the trend of FGM is likely to be high.

This finding corroborates with the finding on the issue that “Entrenched traditional cultures thwart the fight against FGM” in third objective of the study which reported a Mean of 3.68, SD 1.278, Mode 5, and skewness of -ve 0.743: the majority of the respondents agreed with the statement meaning UNICEF assertion that culture impacts highly on FGM was affirmed by the findings. This is why mothers of the victims were found to be having lots of influence

¹¹⁹ Ibid97

to the victims so that they compelled them to undergo the ritual. Because on this issue 57 percent of respondents agreed “Yes” that the victims went through the ritual because their mothers also went through the practice thus luring them to partake on same. The aspect of financial support came out as many participants opined that financial support still needed for addressing the problem as far as “Suggesting the main area in which the international community could come in to help in addressing this FGM problem?”

On the right based approach intervention strategies in addressing FGM in Kenya. The interest of the researcher was to have at a glance the right based approach intervention strategies used by different organisations in addressing Female Genital Mutilation in Kenya. The mostly used approach was health approach which recorded 32.5 percent. This was found so due to the fact that health intervention forms the first issue that should be handled in order to save life. However, in terms of whether to make FGM should be allowed to be legally practised so that it would be not secretly done, it will remain an issue to be looked into for some time based on some legal process/ litigation that is still before Kenyan court of law. As things stand now, health approach of handling FGM issue will remain controversial one because a medical researcher Dr. Tatu Kamau who has gone to the high court to have it legalised in the country due to its health benefits as she argues.¹²⁰ The legal approach recorded 28.3 percent, human rights approach recorded 27.5 percent, and body/ sexual integrity approach recorded 11.7 percent. The two main stumbling blocks for eradication of FGM are culture and lack of

¹²⁰Ibid124

education this came out on the qualitative question -“What do you think is the main stumbling block in the fight against FGM?”

The issue of sensitisation about the dangers of FGM to the victims and their human rights issue were found to be low. This is because the respondents were of the opinion that most victims still do not know that it was their human rights to refuse undergoing the cut. As pointed by the statement that ‘Most victims know that it is their human right to refuse taking part in FGM’ reported a Mean of 2.33, SD 1.342, Mode 1 and + skewness of 0.806. Most victims do not know their rights and that is why they cannot raise alarm when forced to undergo through the practice. This is why it is the organisations try to ensure education and counseling were provided to the victims: The Statement that “The organisation takes part in rehabilitation of victims especially schooling and counseling” reported a Mean of 3.38 SD of 1.421, Mode 5, and Skewness of 0.386. The organisations seemed to be doing this by themselves because most of them seemed not to partner with the international community as indicated by the findings such that “This organisation normally partner with other international organisations in addressing FGM” reported a Mean of 2.40, SD 1.198, Mode 2, and Skewness of 0.613. Most of the respondents did not agree with that statement.

From the findings, it came out that FGM has lots of negative repercussions than any good. If one names lack of sexual pleasure during intimacy that is associated to victims of FGM then this should be the main reason why the practice should not be encouraged. This is because life, especially in marriage, is normally spiced up in this conjugal encounter. All other problems would therefore be dwarfed with this very one. Apart from that it is a fatal practice

because it has resulted to death whereby the victims have been reportedly bled to death when rescue services could not be expedited. Name permanent scarring and difficulty in child birth and one should not encourage his/ her daughter to go that way.

Even though there is still alarming rate of FGM practices in Kenya as per the report, the government of Kenya together with individuals and other institutions are up in arms against the practice going by the recent happenings in the country. The president in addressing the recently held International Conference on Population Development, personally gave his position on the FGM terming it as archaic and a practice that his government would not relent in eradicating. Talk on the invention of five secondary school girls in the country coming up with a mobile App in fighting the vice, then you would appreciate that this fight is being fought from different battle front. The App iCut is designed to connect victims of FGM to legal and medical assistance.¹²¹

This means that the fight on FGM will be made easier, especially bearing in mind that the Kenya government also recently introduced a hotline to address the child marriage and FGM practices in the country. This would mean that when a victim may not be in a position of using iCut App, then the hotline would come in handy for that purpose to rescue her. The victims can also make use of the two options together in order to expedite on rescue. The best thing is therefore to identify the counties where the vice is still rife and give attention to the endemic areas in terms of the county which this study has addressed. It means that when the most affected county is identified as have been done through this report (Isiolo), the

¹²¹ <https://mashable.com/2017/08/03/kenya-teen-girls-app-fgm-i-cut/>

government would channel her effort in that area and ensure that the victims lean on such innovations and available opportunities as well as learning to make use of them expressively. Of importance also is Dr. Kulea, a lady scholar who started her activism against FGM in her early age when she was at her sixth grade when she rescued a girl from early marriage after the girl had undergone FGM. This childhood act inspired her to the effect that when she finally grew up, she started a foundation called Samburu girls foundation that rescues girls from FGM and forced marriages.¹²² This foundation acts in sensitizing girls to get serious with their education and to shun irresponsible cultures like the FGM and early marriages. A similar group was initiated in West Pokot Called the Komesi women's network by Joyce who teamed up with ActionAid. The importance of this group is that apart from economically empowering the women in West Pokot, it also ensures that they know their rights especially to resist FGM¹²³. This has borne fruit because its consequences have been felt as seen by many young women reported to be standing firm against anyone that would want to trample on their rights. These observations concerning the concerted efforts could be harnessed together and encouraged in one front so that the FGM issues be addressed with absolute finality.

5.7Chapter Summary

The first objective of the study was to look into the global Gender Based Violence with specificity to Female Genital Mutilation. The study achieved this objective by establishing that FGM was still not criminalised in Asia making it very much practised in that continent. It also established that the practice was rampant in Africa even though every country in

¹²² www.endfgm.eu

¹²³ <https://kenya.actionaid.org/stories/2019/our-journey-fight-against-fgm-joyce-charles-story-1>

Africa has criminalised the practice. In Europe and US, the practice is criminalised even though the cases found were on the immigrants who relocated to the places after having undergone the cut.

The second objective of the study was to evaluate the prevalence of Female Genital Mutilation in Kenya. The study achieved this objective by unpacking the fact that FGM is prevalence in Kenya especially on parts where Islamic religion was populous and where traditional cultures were still practised.

The third and last objective of the study was to look into the right based approach intervention strategies in addressing FGM in Kenya. The study achieved this objective through ascertaining that the most right based approach intervention used in addressing FGM problem in Kenya is health approach. Other two important ones include legal approach recorded and human rights approach.

CHAPTER SIX

CONCLUSION AND RECOMMENDATION

6.1 Introduction

The study set out to investigate Gender Based Violence and international human rights question with specific interest on FGM or female cutting in Kenya. The study was therefore organised into three specific objectives which included: to evaluate the intensity of Gender Based Violence internationally - especially FGM - in contrast to Kenya, to evaluate the prevalence of FGM in Kenya, and to evaluate appropriate Right Based Approach intervention strategies in addressing FGM in Kenya as a form of GBV. The Chapter therefore, gives conclusions based the mentioned objectives together with the recommendations in accordance with the judgement of the researcher.

6.2 Conclusion

Going by the findings as pertains the first objective; the intensity of Gender Based Violence internationally, the study concluded that even though there are no natives of the Europeans, US, Australia, and Latin America their governments have come out through legislations against FGM. The fact that there are statistics of the FGM victims in the various nations shows the seriousness with which the various governments have handled the issues. The issue with Asia is still challenging due to the fact that nearly every nation in that continent has not illegalised FGM. This makes it a threat to the women who would otherwise shun the practice. That is why it has remained the continent with the highest cases of FGM. On the contrary, Africa which also enjoys its fair share of high number of FGM cases has illegalised it. Most of the African countries were colonised by Europeans; which means there is still that

attachment to the ways of doing things. This forms the reason why FGM has been illegalised in Africa (Kenya included); but due to the fact that it has been part of many African culture, it is hard to end it.

Based on the findings as pertain the second specific objective that set to evaluate the prevalence of FGM in Kenya the study concluded that there are four counties that FGM is still practised rampantly. The counties in order of severity impactation include Isiolo, Kajiado, Kisii, and Narok. This was deduced based on the many number of cases of FGM that the counties handle annually. The study also concluded that there were still high numbers of early marriages as a result of FGM with special mention of Kajiado, followed by Narok, then Isiolo, followed by Kisii. Deaths as a result of FGM were found rampant in Narok followed by Isiolo, then Kajiado, then Kisii.

In line with the third specific objective which set out to evaluate appropriate Right Based approach intervention strategies in addressing FGM in Kenya as a form of GBV; it was concluded that the mostly used strategy was the health approach which recorded high rating. This was due to the fact that many victims of FGM normally want emergency attendance to in order to save their lives due to excessive haemorrhage. This finding did not render other intervention strategies useless as legal approach and human rights approach were equally applied in dealing with the problem. The study also concluded that there is legal laxity especially on the punitive actions on the traditional circumcisers. This was seen when the respondents disagree with the statement that “legal action is normally taken to traditional

circumcisers”. It was also concluded that traditional cultures thwarted the fight against FGM with majority (Modal 5) strongly believed with a strong Mean of 3.68.

The study categorically concludes that FGM is still an international Human Rights Question based on the realisation that it affects nearly all the continents. As far as Europe, US, and South America, it affects the continents due to the immigration of FGM victims to such places. Though they migrate to such continents, they still stick with their traditions and would want it to pass down to their daughters. On the part of Asia it remains an issue due to the fact that the practice is still legal a fact that makes it still rampantly practised. Likewise, it is rampantly practised in Africa, though it is an illegal practice in Africa.

6.3 Recommendations

As per the findings of the study, the researcher would like to put forward the following recommendations:

There is the need for the international community to join hand in censuring the Asian continent so that they illegalise FGM. This make the fight against the practice lighter as it is now when it is still legal in nearly every country in that continent. There is also the need for Africa to make its legal instruments operational because it defeats logic to illegalise a practice yet it remains rampant in the same states.

There is the need for the government to use local administrators in order to avert early marriages. This is because such practices take place at the grass-root level and the local administrators who happen to operate within that level could be privy to issues of the FGM

victims that could be married off early in life. This would act in saving lives that otherwise would have been lost in archaic practice and at the same time saving careers that are normally cut short by forced married after the FGM initiation.

There is the need for a concerted effort in sensitising the women so that they become conversant with their human rights because many seem not to know their rights to refuse the practice. Alongside that recommendation, there should be sensitisation so that Kenyans shun archaic traditions and cultural beliefs that cause more harm than good. There also is the need for the government and NGOs to put up enough hospitals/ rehabilitation institutions for FGM victims in areas where the practice was still rampant so that deaths should be averted based on the many deaths that still arise as a result of the practice. Lastly, legal actions should be tightened so that stern action be taken on the traditional circumcisers for them not to perpetuate the practice in the country.

6.3.1 Recommendations for Further Areas of Study

Given that the researcher looked at the current study on the basis of investigating GBV and international human rights question with specific interest on FGM in Kenya, the study therefore recommends the need to study FGM's impact on the Kenyan economy. This is because FGM affects vital variables like education, health, and population growth. Such study would therefore indicate to the academia which variable is greatly affected by FGM and how does such effect contribute to the economy.

There is also the need to study the relationship between early pregnancies in school going girls and the FGM practice in areas where FGM is rampantly observed as a cultural norm. This is in line with the concern of the Ministry of Education that decries the many incidences of young school going children conceiving in their quest for education.

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APPENDIX I: Questionnaire for Administrators

SECTION 1: General Information

1. Indicate your gender: Male () Female ()

2. Please select your age bracket:

25 and below [], 26 - 35 []
36 - 45 [], 45 + []

3. Please indicate your work designation

Branch Manager []

Assistant Branch Manager []

4. Are you a trained gender specialist practising his/ her profession? Yes [], No []

5. What is your level of academic qualification?

Diploma in gender studies [], Undergraduate degree []

Masters' degree [], Have a PhD []

6. How long have you been in this position?

Less than a Year [], 2 - 4 Years []

5 - 10 Years [], Above 10 Years []

SECTION II: The prevalence of Female Genital Mutilation in Kenya counties

7. What services does your organisation offer to the victims of FGM?

- Offer medical treatment []
- Seeking legal redress for them []
- Counseling and rehabilitation through sending them back to school []
- All of the above []

8. How many FGM cases does your organisation approximately handle annually?

Below 5 [], 6 - 10 [], 11 - 15 [], 16 - 20 [], Above 20 []

9. Approximately, how many cases of FGM victims are you privy of having ended in early marriage? Below 5 [], 6 - 10 [], 11 - 15 [], 16 - 20 [], Above 20 []

10. How many death victims as a result of FGM do you report per year?

Below 5 [], 6 – 10 [], 11 – 15 [], 16 – 20 [], Above 20 []

11. The victims go through the ritual because their mothers did. Yes [] No []

12. The victims go through the ritual voluntarily because they want to conform to the norms.

Yes [], No []

13. The victims are literally forced to go through the ritual. Yes [] No [].

SECTION III: Intervention right based strategies in addressing FGM in Kenya

14. Which right based strategy does your organisation mostly adopt in addressing FGM?

Human rights approach [] Health approach []

Legal approach [] Body and sexual integrity approach []

Any other

In your opinion, scale the reason why you think you were appointed to the position by 1 – Strongly Disagree, 2 - Disagree, 3 –Don't know, 4 –Agree, 5 – Strongly Agree. Place a tick in the appropriate space provided.

Statement	1	2	3	4	5
15. Most victims know that it is their human right to refuse taking part in FGM					
16. Entrenched traditional cultures thwart the fight against FGM					
17. Legal action is normally taken on traditional circumcisers					
18. It is hard for the majority of the FGM victims to appreciate their sexuality					
19. The organisation takes part in rehabilitation of victims especially schooling and counseling					
20. This organisation normally partner with other international organisations in addressing FGM					

APPENDIX II: Interview Guide for Administrators

1. In your view, what has been the trend of FGM in this county where you operate?

.....
.....

2. What do you think is the main stumbling block in the fight against FGM?

.....
.....

3. What are some of the available resources in Kenya that can be utilised to overcome FGM?

.....
.....

4. How has been the response of the international community as far as tackling FGM in this county?

.....
.....

5. Suggest the main area in which the international community could come in to help in addressing this FGM problem?

.....
.....

Appendix III: Turnitin Report

