

The Female Genital Mutilation Act 2011 of Kenya: Challenges Facing its Implementation in Kajiado Central Sub-County, Kenya

Geofrey Towett¹, Peter Gutwa Oino², and Audrey Matere³

¹Coordinator, Faculty of Arts and Social Sciences, Kisii University (Eldoret Campus),
P.O. Box, 6434-30100, Eldoret, Kenya

²Part-time lecturer, Faculty of Arts and Social Sciences, Kisii University (Eldoret Campus),
Department of Social Sciences,
P.O. Box, 6434-30100, Eldoret, Kenya

³Coordinator, Faculty of Education and Human Resource Development, Kisii University (Eldoret Campus),
P.O. Box, 6434-30100, Eldoret, Kenya

Copyright © 2014 ISSR Journals. This is an open access article distributed under the *Creative Commons Attribution License*, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

ABSTRACT: Female Genital Mutilation/Cut (FGM/C) has been a common practice in both developed and in developing countries like Kenya. Kajiado County in Kenya is one of the areas where the practice is highly practiced with girls of below 13 years undergoing through the 'cut'. This practice is however, a criminal offence as outlined in Female Genital Mutilation Act of 2011, though it continues to thrive in various parts of the country such as in Narok, Migori, Kisii, and to a larger extent Kajiado County. This paper is an outcome of a study that was conducted in Kajiado Central Sub-County in Kenya and examined the challenges facing effective implementation of FGM Act of 2011. The focus on Kajiado Central Sub-County was based on the fact that the county as a whole is largely inhabited by the Maasai community whose FGM/C practice according to the Kenya Demographic and Health Surveys (KDHS) stands at 93 percent. The research on which this paper was drawn adopted a cross sectional research design that employed various methods of data collection. Data was collected by use of research instruments such as semi-structured interview schedule and interview guide for Focus Group Discussions (FGDs) with traditional circumcisers, *manyatta* elders, traditional religious leaders, public health officers, public administrative officers and sampled men and women with at least five children in the study area. The study found that despite the practice of FGM/C being criminalized with hefty penalties in Kenya, the practice is still widespread in Kajiado County. The findings of the study revealed that the implementation of FGM Act 2011 in Kajiado County has been constrained by a number of factors such as deeply ingrained culture and traditional practices, ignorance of the legislation and the consequences of FGM/C, ingrained traditional religious beliefs and superstition, reluctance by law enforcement officers in implementing the Act, as well as high poverty levels in the Sub-County. Based on the findings of the study, this paper recommends that efforts to eliminate FGM/C should not only be backed up by strictly enforcing legislative provisions by the county and national governments, but also incorporating both old women and men who are the custodians of culture. At the same time, the stakeholders should initiate advocacy and education programmes to help change the culture holders' mind sets, for instance, through the local mass media. Additionally, there is need to initiate alternative sources of income for traditional circumcisers who depend on the practice as a source of livelihood. Finally, school curriculum at all levels of education should incorporate themes such as female genital mutilation/cut and its effects on the life of a girl child and women.

KEYWORDS: Female Genital Mutilation/Cut, Circumcision, FGM/C ACT 2011, Kenya.

1 INTRODUCTION

Female Genital Mutilation/Cut (FGM/C) is a deeply rooted historical, cultural and religious tradition that has been the subject of considerable debate over the years [1]. Female genital mutilation/cut has been practiced for over 2,500 years in several countries across the world, and most prevalently, in the African Continent, where it is seen as a component part of the African culture [2]. FGM/C is classified as a critical global health issue, which has garnered international attention because of the political ramifications of eradication efforts and its role in the subjugation of girls and women's rights. The World Health Organization (WHO) defines FGM/C as "all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons" [3]. In Kenya, The *Children's Act, 2001* defines female circumcision as "the cutting and removal of part or all of the female genitalia and includes the practices of clitoridectomy, excision, infibulations or other practices involving the removal of part, or of the entire clitoris or labia minora of a female person"[4]. Female Genital Mutilation/Cut (FGM/C) is also commonly known as Female Circumcision (FC) [5], and the practice is rooted in gender inequality, ideas about limpidness, modesty and aesthetics and attempts to control women's sexuality. It is habitually instigated and accomplished by women, who see it as a source of nobility and authority [31]. Over 140 million girls and women across the globe have experienced the cut; that is in 27 countries in Sub-Saharan and North-East Africa, and to a lesser extent in Asia, and in the Middle East [6].

In Africa alone, United Nations organizations have estimated that up to three million girls are at risk of being cut annually [7]. In some countries it is practiced as early as a few days after birth, and in others as late as prior to marriage or after pregnancy. One of the notable trends in global FGM/C today is the progressive lowering of the age at which girls undergo the practice. Among communities that practice FGM/C, the procedure is a highly valued ritual, whose purpose is to mark the transition from childhood to womanhood [8]. In these traditional societies, the practice represents part of the rites of passage or initiation ceremonies intended to impart the skills and information a woman will need to fulfill her duties as a wife and a mother [9]. The practice of FGM/C is derived from varied and complex belief systems and rituals surrounding women's fertility and control of their sexuality in traditional male dominated societies. Ref [10] contends that FGM/C is used by men as a tool to exercise power and control over their women. He further asserts that men claim that female sexuality is very dangerous and has to be controlled.

The reasons given by communities that practice FGM/C varies widely but common reasons given for the practice is that it reduces the sexual desire of girls and women, promotes virginity and chastity, maintains fidelity among married women, as well as for hygienic and aesthetic reasons [11]. There are push factors that act as great incentives for families to continue the practice. In communities where it is a tradition, girls and women who do not undergo FGM/C are stigmatized and discriminated against for noncompliance with traditional norms. Stigma and discrimination may take the form of not being marriageable, as FGM/C is considered a pre-requisite for marriage in some societies that practice it. The 'bride price' (paid either in cash or in kind) is part of the marriage transaction in African societies and is generally paid by the groom's family to the family of the bride. This may not be paid if the bride has not undergone FGM/C. Moreover, family 'honour' is considered besmirched in such societies if the bride has not undergone through the 'cut' [12].

In communities that believe in ancestral worship, women are instilled with a fear of the unknown through curses and the evocation of ancestral wrath. Uncircumcised women are considered physically dirty and may be barred from such daily activities as cooking and community decision-making roles. They are considered religiously 'impure' and may not be allowed to undertake certain religious functions such as pouring of libation [13]. In the practicing communities such as Kisii and Kuria in Kenya, uncircumcised women are viewed as 'children' - even though adult - and are banned from key social functions and denied inheritance of property. Another reason FGM/C is sustained is because it provides economic incentives for the practitioners who perform the 'cuts', both in the traditional and modern societies. In some FGM/C-practicing communities, traditional practitioners are given an elevated status, wield considerable power and may resist FGM/C being stopped. Girls who undergo FGM/C are also provided with rewards, including public recognition and celebrations, gifts, the potential for marriage, respect and the ability to participate in social functions as adult women. The rewards may motivate some girls to look forward to undergoing FGM/C [14].

According to the Kenya Demographic and Health Surveys (KDHS) statistics, the overall prevalence of FGM/C has been decreasing over the last decade. In 2008/9, 27% of women had undergone FGM/C, a decline from 32% in 2003 and 38% in 1998. Older women are more likely to have undergone FGM/C than younger women, further indicating the prevalence is decreasing. However, the prevalence has remained highest among the Somali (97%), Kisii (96%), Kuria (96%) and the Maasai (93%), but relatively low among the Kikuyu, Kamba and Turkana, and rarely practiced among the Luo and Luhya (less than 1%) [15]. Female genital mutilation/cut surgeries are defined by four classifications. More precise anatomical descriptions are provided by typologies developed by WHO in 1995 and discussed below [16].

Type I: Partial or total removal of the clitoris and/or the prepuce. In medical literature, this form of FGM/C is also referred to as *'clitoridectomy'*. A number of practicing communities also refer to it as *sunna*, which is Arabic for 'tradition'.

Type II: Partial or total removal of the clitoris and labia minora, with or without excision of the labia majora. The 2007 WHO definition recognizes that although this form of cutting is more extensive than Type I, there is considerable variability in the form or degree of cutting. In English, this type of cutting is often referred to as *'excision'*, although it is important to note that in French the term *'excision'* generally refers to all forms of FGM/C.

Type III: Narrowing of the vaginal orifice by cutting and bringing together the labia minora and/or the labia majora to create a type of seal, with or without excision of the clitoris. In most instances, the cut edges of the labia are stitched together, which is referred to as *'infibulation'*. The adhesion of the labia results in near complete covering of the urethra and the vaginal orifice, which must be reopened for sexual intercourse and childbirth, a procedure known as *'defibulation'*. In some instances, this is followed by *re-infibulation*.

Type IV: All other harmful procedures to the female genitalia for non-medical purposes, for example: pricking, piercing, incising, scraping and cauterization. Pricking or nicking involves cutting to draw blood, but no removal of tissue and no permanent alteration of the external genitalia. This is sometimes called *'symbolic circumcision'*, and some communities have described it as a traditional form of FGM/C. Although symbolic circumcision is still highly controversial, it has been proposed as an alternative to more severe forms of cutting in both African and other countries where FGM/C is performed.

In Kenya, communities that practice FGM/C justify it as a traditional rite of passage into adulthood. Among such communities include the Somali, Kisii, Kuria and the Maasai [17]. The Maasai are a semi-nomadic community located in several sub-counties in central part of Kenya and Rift Valley. They largely dominate Kajiado county comprising of Kajiado central, Kajiado south and Kajiado north constituencies, where they move around in search of pasture and water for their animals. Traditionally, the Maasai diet consists mainly of cow's milk, maize meal and meat. All of these foods are grown or reared by the Maasai, reducing their need to rely on other communities, which has in turn reduced their exposure to and influence from other cultures [18]. With such an ingrained sense of culture and tradition, it can be very difficult to persuade Maasai people to let go of traditional practices like FGM/C. Even educated Maasai men and women, who are aware of the risks FGM/C poses, practice it for fear of rejection by wider Maasai society. Regardless of how educated she may be or her high social status, an 'uncircumcised' Maasai woman is considered a 'girl child' and risks isolation from the community, as well as zero-to-nil prospects of finding a spouse within the community. The Maasai FGM/C ceremony is a large and annual community celebration for all girls who have reached adolescence during the year. During the course of the celebration, groups of girls mostly between the ages of 12 and 14 undergo FGM/C on the same day by traditional 'circumcisers' (usually experienced elderly women). Until recently, all girls undergo FGM/C procedure with the same sharp instrument (often a sharpened knife known as an *"ormurunya"*), after which a paste made from cow dung and milk fat is applied to stop bleeding [19].

The type of FGM/C commonly practiced amongst the Maasai falls under Type-1 FGM/C (clitoridectomy), which involves the removal of all or part of the clitoris. After undergoing FGM/C, the girls go into seclusion during which they are taught community secrets of marriage and their rights and duties as an accomplished woman in the Maasai community. After the end of seclusion period (determined by cultural holders-elderly women and traditional circumcisers), they then return to the community where they are considered fully grown women, capable of being married. FGM/C is as such tied into the community's sense of honour [20]. Despite the perceived socio-cultural importance of FGM/C among the Maasai, several complications have often been identified. Some of the health complications associated with FGM/C include severe bleeding, tetanus, urinary tract infections, poor urine retention, ulceration, difficult child birth, and pain during sex.

Female Genital Mutilation/Cut is recognized internationally, as a violation of the human rights of girls and women [21]. It is an act of violence that harms women and girls in many ways, limiting their potential for full development, and a major obstacle to the achievement of gender equality in both developed and developing countries. Most governments in countries where FGM/C is practiced have ratified several United Nations Conventions that make provision for the promotion and protection of the human rights of girls and women, including the elimination of FGM/C. These include: The United Nations Convention on the Elimination of All Forms of Discrimination against Women (1979), The United Nations Convention on the Rights of the Child (which protects the rights of girl children) (1989), and The International Covenant on Civil and Political Rights (1966). These Conventions, which form part of binding international law, oblige member states that are signatories to protect their nationals from harmful practices such as FGM/C [22].

In Africa, thirteen countries have responded to the problem of FGM/C by implementing legislation against it. According to 'United Nation Center for Reproductive Rights', there are 16 countries with criminal legislation against FGM/C: Benin (2003-

the date legislation was implemented), Burkina Faso (1996), Central African Republic (1966), Chad (2003), Côte d'Ivoire (1998), Djibouti (1994), Egypt (Ministerial Decree, 1996), Ethiopia (2004), Ghana (1994), Guinea (1965), Kenya (2001 and 2011), Niger (2003), Senegal (1999), Tanzania (1998), Togo (1998), and Nigeria (1999-2002). In Mauritania, for example, the law is restricted to a ban on the practice in government health facilities and by medical practitioners. In Mauritania, the United Republic of Tanzania and some non-African countries, including Canada and the United States, FGM/C is illegal only among minors. Laws banning FGM/C at all ages have been passed in most African countries. For instance, in Burkina Faso, fines can be levied not only against practitioners of FGM/C, but also against anyone who knows that the procedure has been performed and fails to report it [23].

The Kenyan government has progressively put in place several policies to eliminate FGM/C. For instance, in 1983, the president issued a decree against FGM/C and those practicing it were required to stop the practice or face legal action. However, many communities continued the practice in secret by inviting the circumcisers to their homes without the knowledge of the authorities. Thus, although the decree demonstrated the highest level of political will to eliminate FGM/C in the country, it had limited success. Following the 1993 UN Declaration on Elimination of all Forms of Violence Against Women, Kenya developed a National Plan of Action for the Elimination of FGM/C [24]. The UN declaration required governments to commit themselves to condemn violence against women, punish offenders, and address issues surrounding gender-based violence. This sparked even more interest in Kenya in addressing FGM/C, which was further reinforced by the International Conference on Population and Development (ICPD) in Cairo in 1994 and the Fourth World Conference on Women in Beijing in 1995. Following the ICPD, Kenya developed a population policy that was known as *Sessional Paper No. 1 of 2000 on Population Policy for Sustainable Development* which advocated against FGM/C. In 2001, the government put in place the first set of laws that dealt specifically with FGM/C. *The Children's Act* that came into force in 2001 empowered the courts to punish those who facilitate or practice FGM/C [4].

While FGM/C declined somewhat in Kenya after the implementation of *The Children Act 2001*, one in four women was still being 'cut'. This led the government to introduce a more comprehensive law, the *Prohibition of Female Genital Mutilation Act (2011)*, which stipulates stiffer punishments for offenders. These include a three- to seven-year prison sentence or a fine of nearly US \$6,000 for anyone practicing FGM/C. According to the Act, the offences punishable includes; aiding and abetting female genital mutilation/cut, procuring a person to perform genital female mutilation/cut in another country, use of premises to perform female genital mutilation/cut, possession of tools or equipment usable in FGM/C, failure to report commission of offence, and use of derogatory or abusive language intended to ridicule, embarrass or otherwise harm a woman for having not undergone female genital mutilation/cut, or a man for marrying or otherwise supporting a woman who has not undergone female genital mutilation/cut. A person causing death by performing FGM/C is liable to life imprisonment [25]. The policy calls on stakeholders to take concrete steps to promote the abandonment of FGM/C through legislation, public education, advocacy, media coverage, the empowerment of women, and access to reproductive health and other support services. These laws and policies are supported by the 2010 Constitution of Kenya, which reaffirms the government's commitment to protect and promote human rights and fundamental freedoms [26]. It should however be noted that despite the enactment and implementation of FGM Act of 2011 in the country as well as the 2010 new constitution, prevalence of FGM/C still remains high especially amongst the Maasai, standing at 93% (among female of 13-49 years). It is based on this background therefore, that the researchers sought to find out the challenges facing effective implementation of FGM Act of 2011 in Kajiado Central Sub-County in Kenya.

2 RESEARCH METHODOLOGY

This paper is an output of a study that was conducted in Kajiado Central Sub-County in 2012. The entire Kajiado County has a population of 687,312 inhabitants and an area size of 21,292.7 km². Kajiado County as a whole is largely occupied by the Maasai community. Kajiado Central Sub-County consists of fourteen wards and a population size of 48,800 inhabitants. It is one of the three sub-counties of Kajiado County that share common borders with Nairobi County, Machakos County and Kiambu County [27]. The focus on Kajiado Central Sub-County was based on the fact that it is largely dominated by the Maasai community known both locally and internationally because of its conservative lifestyle including their ingrained tradition and culture, and the Sub-County has experienced violent protests by pro-FGM/C campaigners against government officers and the local populace who oppose the 'cut'. The pro-FGM/C advocates have been women drawn from various wards in the Sub-County. The research on which this paper was drawn adopted a cross sectional research design. Four out of fourteen wards were randomly sampled for study and a sample size of 200 respondents was used to solicit data needed in the study. The respondents comprised of traditional circumcisers, *manyatta* elders, traditional religious leaders, public health officers, administrative officers from the sampled wards and sampled men and women with at least five children in the study area. Data was collected by means of semi-structured interviews and Focus Group Discussions with the respondents. The paper significantly revolves around the challenges facing effective implementation of FGM Act of 2011 of Kenya. This is vital

in understanding how best such factors can be addressed in order to mitigate the negative consequences of the 'cut' both to the women as well as the young girls who are often subjected to the 'cut' against their will.

3 FINDINGS AND DISCUSSIONS

The subsequent sections highlight the discussion of major finding of the study.

3.1 CHALLENGES CONSTRAINING EFFECTIVE IMPLEMENTATION OF FGM ACT 2011

The researcher sought to find out the challenges facing effective implementation of FGM Act of 2011 in Kajiado Central Sub-County and the findings were as indicated in Table 1.0.

Table 1.0: Challenges Constraining Effective Implementation of FGM Act 2011

Constraining Factors	Frequency	Percentage (%)
Deeply ingrained culture and tradition	110	55
Ignorance of the legislation and consequence of FGM/C	22	11
Ingrained traditional religious beliefs and superstition	48	24
Reluctance by law enforcement officers	12	6
High poverty level	8	4
TOTAL	S=200	100

The findings depicted that 110(55%) respondents attributed non-compliance to deeply ingrained culture, while 12 (6%) respondents attributed it to reluctance by law enforcement officers who are implementers of the policy. In addition, 48(24%) respondents cited ingrained traditional religious beliefs and superstition while 8(4%) attributed it to high poverty level in the region. Finally, the findings also indicated that 22(11%) respondents cited ignorance of the legislation and the consequences of FGM/C as a constraining factor to the implementation of the FGM Act 2011.

3.1.1 DEEPLY INGRAINED MAASAI CULTURE AND TRADITION

It was evident from the findings that the leading factor constraining effective implementation of the policy is a deep rooted Maasai culture and tradition regarding FGM/C. It was found out that 55% of the respondents held that the Maasai culture on marriage and ancestral relationship, regard FGM/C as a rite of passage, which demands that girls over 13 years of age must be 'officially' initiated into the society. In relation to marriageability, one of the female respondents retorted that:

Uncircumcised girls are indecent because they are promiscuous and are ever sex hungry and never have stable families. They are like cars without brakes and are absolutely, sexually uncontrollable. HIV/AIDS is never far from their doorstep. Furthermore, they can neither fetch wealth to the parents nor get a marriage partner in the community. They are just cursed....(Female, age 46 years).

It was apparent from the findings that the Maasai community believes that promiscuity in the society can largely be controlled through FGM/C. Promiscuity among girls is greatly abhorred and promiscuous women are greatly despised and disrespected by the society. In addition, family wealth is guaranteed if the daughters are given over to marriage when they are circumcised. The cultural value of FGM/C is also seen in terms of the number of cows, sheep and goats the parents get as bride price. FGM/C thus remains a strong cultural practice to be upheld at all cost among the Maasai community.

The findings further revealed that the Maasai community has a cultural belief that uncircumcised women are ever 'young girls' who can never 'grow up'. When the researcher probed one of the female respondents, she narrated that:

The Maasai celebrates FGM/C since community secrets regarding the institution of marriage are passed on to the circumcised girls. Good behavior and responsibility in marriage are passed on and thus reduces failures of responsibilities among women. Which 'morán' in our community would like to marry an uncircumcised girl who knows nothing regarding such community secrets? (Female, Age 42 years).

It was evident from the responses given by the respondents that FGM/C plays a significant role in relation to marriage and family as a social institution and therefore, the community is greatly ingrained to the practice. Despite the efforts made

by the government to implement the FGM Act of 2011, a lot of resistance from the community has been witnessed due to the perceived significant role played by FGM/C in relation to the Maasai culture and tradition.

In addition, resistance to the implementation of the FGM Act, 2011 was also based on the community principle that Maasai as a tribe identify themselves as belonging to a group whose 'ways' include 'circumcision' in contrast to other different communities. The identity of an individual as a Maasai is largely based on this rite which confirms a sense of belonging to the community. They therefore, maintained that FGM/C must be continued and any effort to stop it must be resisted at all cost because it is their cultural practice and heritage that confirms their identity. FGM/C is a hallmark of social-cultural identity that solidifies one's sense of belonging to the Maasai society [28]. The study conducted by [29] confirmed that in Gambia, respect for what was found from the grandparents was the most strongly and commonly stated reason for performing FGM/C and thus, must be upheld and respected by all people in the society.

Furthermore, one of the administrative officers argued that nomadic life among the Maasai community makes it hard to fully enforce the policy since they constantly migrate across the border to Tanzania. The public administrative officer quipped that:

It's hard apprehending perpetrators of this practice since the community migrates quite often in search of pasture and water to Tanganyika. Before the officers are mobilized, they are already past the border and they can't come back to the same place when they return. They settle elsewhere and continue with the practice and thus, trans-border migration provides a safe hiding from the law.... (Male, Age 37 years).

It is evident from the findings that nomadic life as a traditional practice among the Maasai community provides a safe hide-out whenever the practice is done. Perpetrators especially traditional circumcisers and families who practice FGM/C cross the border to Tanzania to get safe haven from the law. Seasonal trans-border migration in search of water and pasture by the community in the county makes it difficult for law enforcement officers to make close follow up and apprehend those who either subject their girls to the 'cut', aid and abet female genital mutilation/cut, possess tools or equipment usable in FGM/C, or harm women or girls for having not undergone female genital mutilation/cut.

3.1.2 IGNORANCE OF THE LEGISLATION AND THE CONSEQUENCES OF FGM/C

Research findings indicated that 11 percent of the respondents attributed failure in compliance to the Act, to ignorance of the legislation as well as the consequences of FGM/C. The study established that 72% of the respondents who were largely the *manyatta* elders, traditional religious leaders and men and women sampled for the study, were illiterate and unaware of the existence of FGM/C legislation in Kenya. Although public health officers and administrative officers in charge of various locations and sub-locations in the sampled wards were fully aware of the existence of the legislation, they admitted that illiteracy and lack of awareness campaigns among the community members had largely contributed to the continued existence of FGM/C in the community. When the researchers further probed one of the female respondents regarding her knowledge on the existence and the provisions contained in the FGM Act 2011, she narrated that:

I can't read or write, leave alone understanding the content of that document. Women in our community learn much through informal means such as teachings after the 'cut'. It is surely news to hear that there is a law that prohibits our most valued rite. Nobody ever asked us our opinion before coming up with such a repressing law and is therefore, unacceptable to us.... (Female, Age 44 years)

It is evident from the above response that majority of community members were absolutely ignorant of the existence of the legislation prohibiting FGM/C. High illiteracy level and lack of awareness campaigns is a hindrance towards popularizing of the law and the efforts to eradicate the practice in the Sub-County. In addition, it is also clear that the community believed that they should have been consulted before the legislation was enacted. They largely believe that the legislation is against their customs and traditions and is not worth abiding by. According to Ref [29], legislations that are largely inconsistent with people's cultures and traditions often face a great non-compliance in both developed and developing countries. The researchers upon probing one of the female public health officers said that:

The community I come from (Maasai) still hold that FGM/C is important since it reduces complications during child birth, reduces promiscuity, contributes to cleanliness in the genital area and avoidance of diseases.....Efforts to educate them on the negative consequences have never yielded fruits since most of the elites including myself and many learned women around underwent through the cut....(Female, Age 31 years).

The response from the respondent indicated that most people in the community are absolutely ignorant of the negative consequences of FGM/C. They largely believe that FGM/C is paramount in keeping women clean, easy child birth and reduces diseases among women. This is contrary to health risk posed by FGM/C such as death due to excessive bleeding,

hemorrhage, post-operative shock, fractures of the clavicle or dislocation of the hip joint if heavy pressure is applied to restrain the struggling girl during the operation, infection as a result of unhygienic conditions, clitoral neuroma, and calculus formation in the vagina. The fact that even the elite have undergone the 'cut' among the Maasai community as argued by the respondent, makes it difficult for them to stage anti-FGM/C campaigns in areas inhabited by the community. Those who attempt to do so are considered as rebels and traitors who are always ignored in any community gathering regardless of their socio-economic and political achievements. Ignorance of the legislation and the consequences of the 'cut' as well as the elites who have also undergone the 'cut' make it difficult for various administrative officers to implement the policy.

3.1.3 INGRAINED TRADITIONAL RELIGIOUS BELIEFS AND SUPERSTITION

As indicated in Table 1.0, a total of 48(24%) respondents attributed non-compliance to the policy to ingrained traditional religious beliefs and superstition. The Maasai are monotheistic, worshipping a single deity called *Enkai*. The Maasai believe that each person is sent a guardian spirit by *Enkai* to watch them from birth to the day the person dies. The researchers established that they also believe that guardian spirit bring great blessing to all those who abide by the Maasai culture and tradition, but also bring calamities and death to those who rebel and reveals community most guarded secrets such as circumcision. One traditional religious leader (*Loonkidongi*) during the interviews remarked that:

Blessed be *Enkai* who brings good fortune to the faithful and destroy his enemies. *Enkai* value true Maasai who abide by our customs and tradition. He however, curses the rebels and traitors by bringing death to the community. He can send the red cock (lightning), to strike individuals who rebel, or death among the *morans* during cattle raids (Male, Age 52 years).

When the researchers further probed the religious leader, it was established that death among the Maasai is attributed to rebellion against culture and tradition and thus, appeasement must be made to calm both the ancestors as well as the guardian spirit. The researcher further established that such appeasement is done through pouring of libation and offering of sacrificial lamb by traditional religious leaders. In addition, he further argued that during both male and female circumcision, the blood that is shed calms the ancestral spirits and the guardian angel and is a sign of absolute spiritual devotion. The initiates (circumcised boys or girls) consequently takes an oath never to reveal community secrets including talking of circumcision practice in public or to the uncircumcised within and outside the Maasai community. One *manyatta* elder quipped that:

Female circumcision is our culture. Why should we be forced to abandon it when we were born into it? Abandoning our culture would be annoying our ancestors. It would bring a curse to the entire community. (Male, Age 55 years).

The study found out that the Maasai community attributes various occurrences such as disability, deaths at birth, skin diseases, lightning strikes, death during cattle raids and barrenness to abandonment of Maasai culture and traditions. For instance, deaths at birth can occur if a woman is not circumcised since the guardian spirit is angry at the mother. Circumcised women are believed to easily give birth because, through circumcision, they not only appease the ancestors and the guardian spirit through the blood they shed, but also have their birth canal prepared for birth. It was evident during the interview that those who fight against FGM/C are considered to bring bad omen and calamities to the community and must be publicly fought and cursed by elders to die a mysterious death. Such an ingrained religious beliefs and superstition has largely constrained implementation of FGM Act of 2011 in the Sub -County.

3.1.4 RELUCTANCE BY LAW ENFORCEMENT OFFICERS

According to Section 2(d), of FGM Act 2011, law enforcement officer who include police officers, members of the provincial administration, children's officers, probation officers, gender and social development officers and a cultural officers have a role to play in addressing issues related to FGM/C [31]. In relation to this research, the researchers established that six percent (6%) of all respondents believed that law enforcement officers especially the sub-chiefs and chiefs have largely been reluctant in implementing the FGM Act 2011. One respondent who was a chief to a location said that:

Law enforcement officers especially the chiefs and sub-chiefs have witnessed unprecedented hostility from the community members after trying to implement the Act. A sub-chief from my location had his house razed to the ground by hungry group of women. Other law enforcement officers including health officers have since been threatened should they ever try to rebel against the culture and tradition of their community (Male Age 59 years).

The sub-chiefs and chiefs in their respective areas of jurisdiction have faced enormous aggression and resistance in their attempt to stop the rite. It is evident from the respondent's statement that though there is goodwill to implement the Act by

the law enforcement officers, extreme resistance characterized by burning of officer's houses had prompted them to go slow in implementing the Act in their respective areas of jurisdiction. In addition, various officers such as health officers who attempted to educate the community about the consequences of the 'cut' had been considered as traitors and rebels against the community's most treasured cultural practice. Such rebellion from the community members have resulted in reluctance by the public officers in implementing the Act.

This study is augmented by various evidences from various sources including media outlets. For instance, on 3rd June 2014, the Kenyan Standard Newspaper reported a case where three journalists and a writer were seriously injured and admitted in a nearby health centre by infuriated women in Kajiado County accusing them for being at the fore front in fighting FGM/C. The newspaper reported that:

...Three journalists including a writer were injured and were treated at a nearby health centre after the demonstrators turned to them accusing them for being at the fore front in fighting FGM/C. NTV Cameraman Mr Abdalah Ngotho and Ms Christine Musa of Media Max were injured during the melee while Mr Ngotho's television Camera was damaged. As whipping went on, Media-Max's Christine opted to save herself using the Maasai dialect declaring she is circumcised and advocating for FGM/C too. Unfortunately the irate women demanded to strip her off for inspection to ascertain her truth....(Standard Newspaper, 4th June,2014 pp2).

Despite the fact that the above reportage captured aggression against journalists in the county, fight against public officials often occurs and goes unreported as such if reported, would be an embarrassment to the public officers affected. Fear of reprisal by the public officials such as the chiefs, sub-chiefs and various public health officers, has prompted them to remain silent and reluctant in making close follow up on reported cases of FGM/C. Such a move consequently, impedes efforts to eradicate FGM/C in the Sub-County.

3.1.5 HIGH POVERTY LEVEL

The study findings revealed that resistance to the implementation of FGM Act 2011 in the area was attributed to the economic gain that various stakeholders get. This was raised by four percent (4%) of the respondents in the study. Focused group discussion revealed that the key actors who mostly benefit economically from FGM/C include traditional circumcisers, traditional religious leaders, parents of the initiates and few law enforcement officers who are often bribed to keep silent on the cultural practice. It was evident from the findings that parents of the female initiates greatly value the practice since it fetches a lot of cows and goats when the initiate is finally given over to marriage. Young men who marry a circumcised woman are required to pay up to seventy cows and twenty sheep and goats as bride price consequently, bringing a lot of wealth to girl's parents. Girl child education as an investment is hardly emphasized by the Maasai community compared to the emphasis put on FGM/C. One of the village elders during a focused group discussion argued that:

Most members of the community consider their economic status based on the number of livestock they get as bride price, not on the western education that degrades African culture. Having more girls in a family means wealth in waiting since they fetch a lot of cows and goats when they are circumcised and given over to marriage (Female, Age 48 years).

The study further established that traditional circumcisers are highly revered in places where the practice is popular and entrenched in their culture. The traditional circumciser are paid their dues based on the number of initiates they 'cut' that is, the more the initiates, the more the pay for them. Consequently, traditional circumcisers often emphasizes on the practice claiming that ancestors and guardian spirit watches over the community to punish the homes of those who abet the cultural practice from the great grandparents. Since traditional circumcisers are highly revered for fear of curse among the Maasai community, the community often follows their instructions as absolute truth. These circumcisers derive substantial income from the practice and therefore, they see the practice of FGM/C as their own means of making money and livelihood. They do everything to promote this aspect of their culture, and resist its eradication. Owing to high poverty level in Kajiado County, most members of the community especially the traditional religious leaders, circumcisers, some public officers and parents considers circumcision as both an avenue to economic gain as well as a cultural rite worth protecting. Such community gate-keepers consider that efforts to eradicate FGM/C should be resisted at all cost knowing that it constitutes a major source of economic gain.

4 CONCLUSION AND RECOMMENDATIONS

From the foregoing discussions, FGM/C practice is considered out dated and criminalized in Kenya. However, it is still widely practiced in Kajiado Central Sub-County in Kajiado County. Kenya effected FGM Act of 2011 to help in eradicating the

practice, however, the efforts exerted have achieved little impact and largely hampered by ingrained Maasai culture and tradition, ignorance of the legislation and the consequences of FGM/C, ingrained traditional religious beliefs and superstition, reluctance by law enforcement officers in implementing the Act as well as high poverty levels in the Sub-County, which have influenced the initiators to continue with the practice as a way of generating income for themselves and their families. Based on the findings of the study, this paper recommends that efforts to eliminate FGM/C should not only be backed up by strictly enforcing legislative provisions by the county and national governments, but also incorporating both old women and men who are the custodians of culture in the Maasai community. At the same time, the stakeholders should initiate advocacy and education programmes to help change the culture holders' mind sets, for instance, through the local mass media. Additionally, there is need to initiate alternative sources of income for traditional circumcisers who depend on the practice as a source of livelihood. Finally, school curriculum, at all levels of education should incorporate themes such as female genital mutilation/cut and its effects on the life of a girl child and women.

REFERENCES

- [1] Rezaee F, A. (2012). Theories on Female Genital Mutilation/cut; Department of Cultural Anthropology; Uppsala University.
- [2] Hernlund, Y. and B. Shell-Duncan (2007) *Trans-cultural Bodies: Female Genital Cutting in Global Context*. Rutgers University Press
- [3] World Health Organization, *Eliminating Female Genital Mutilation/cut: An interagency statement*, WHO, UNFPA, UNICEF, UNIFEM, OHCHR, UNHCR, UNECA, UNESCO, UNDP, UNAIDS, WHO, Geneva, 2008, <<http://www.who.int/reproductivehealth/publications/FGM/C/9789241596442/en/index.html>>, accessed 1 March 2013.
- [4] *The Children's Act, 2001 (Government Of Kenya)*
- [5] United Nations Children's Fund, *Coordinated Strategy to Abandon Female Genital Mutilation/cutting in One Generation: A human rights-based approach to programming*, Technical Note, UNICEF, New York, 2008.
- [6] UNICEF, (2013); *Female Genital Mutilation/cutting: A statistical overview and exploration of the dynamics of change*: New York.
- [7] United Nations. 2012. *Advancement of Women: Report of the Third Committee*: http://www.un.org/ga/search/view_doc.asp?symbol=A%2F67%2F450
- [8] Appropriate Technology in Health (PATH), (1999). *Female Genital Circumcision in Four Districts in Kenya*. Nairobi.
- [9] Republic of Kenya, (2001). *Report on Female Genital Mutilation/cut [FGM/C] or Female Genital Cutting*.
- [10] Hosken, Fran.P.1993. *The Hosken Report: Genital and Sexual Mutilation/cut of Females*, 4th Revised Edition (Women's International Network News: Lexington, MA, 1993. New York: Oxford University Press.
- [11] Dorkenoo, E., *Cutting the Rose – Female Genital Mutilation/cut: The practice and its prevention*, Minority Rights Group, London, 1994; Shell-Duncan, B., and Y. Hernlund, 'Female "Circumcision" in Africa: Dimensions of the practice and debates', *Female "Circumcision" in Africa: Culture, controversy, and change*, edited by B. Shell-Duncan and Y. Hernlund, Lynne Rienner Publishers, Boulder, CO, 2000, pp. 1-40.
- [12] Ahmadu, F., 'Rites and Wrongs: An insider/outsider reflects on power and excision', *Female "Circumcision" in Africa: Culture, controversy, and change*, edited by B. Shell-Duncan and Y. Hernlund, Lynne Rienner Publishers, Boulder, CO, 2000, pp. 283-312.
- [13] Hicks, E. K; (1993). *Infibulations: Female Mutilation/cut in Islamic Society*. London. Heinemann, Educational Books.
- [14] Hosken, F. (1993). *The Hosken Report: Genital and Sexual Mutilation/cut of Females*. Lexington. Woman's International Network News.
- [15] Government of Kenya (GOK). (1998). *Kenya Demographic and Health Survey (KDHS)*. Nairobi. GOK.
- [16] World Health Organization,(WHO,1992). *Female Circumcision; Statement of WHO, Position and Activities*, Geneva, 1992.
- [17] Government of Kenya (GOK). (1998). *Kenya Demographic and Health Survey (KDHS)*. Nairobi. GOK.
- [18] IRIN. 2005. *FGM/C amongst the Maasai Community of Kenya Razor's Edge - The Controversy of Female Genital Mutilation/cut*: <http://www.irinnews.org/InDepthMain.aspx?InDepthId=15&ReportId=62470>
- [19] K. Arhem, *The Maasai and the State: The Impact of Rural Development Policies on a Pastoral People in Tanzania*, Discussion Paper No. 52 at IWGIA.
- [20] John L. Berntsen, *Maasai and Iloikop: Ritual Experts and Their Followers* (1977) University of Wisconsin at Madison).
- [21] Rahman, A. and N. Toubia (2000) *Female Genital Mutilation/cut: A Guide to Laws and Policies Worldwide*. Zed Books
- [22] Rahman, A. and N. Toubia (2000) *Female Genital Mutilation/cut: A Guide to Laws and Policies Worldwide*. Zed Books

- [23] Giuliani, C. (2006) *Female Genital Cutting in Africa: Legal and Non-Legal Strategies to Abandon the Practice*. Institut d'études politiques.
- [24] Faiza, M. (2011) *Protecting girls from undergoing Female Genital Mutilation/cut: The experience of working with the Maasai communities in Kenya and Tanzania*, Pafido Enterprises, Nairobi
- [25] The Prohibition of Female Genital Mutilation/cut Act, 2011 No. 32 Of 2011
- [26] Government of Kenya: *The Constitution of Kenya*; Government Printers; Nairobi, 2010.
- [27] Gwako,L (1992) *Female Circumcision In Kenya: A Study Of Gusii Women Experience And Current Attitude With mplication for Social Change*, Moi University-Eldoret, Kenya.
- [28] Hernlund, Y (200) "Cutting Without Ritual And Ritual Without Cutting: Female Circumcision And Reritualization Of Initiation" In Shell-Duncan Bettina And Ylva (Eds) *Circumcision In Africa: Culture, Controversy And Change:(235-252)*, Liner Reiner Publisher Inc, Colorado And London
- [29] Anderson, J; *Public policy making (2nd)* Holt, Rinehart & Winston; New York, 1978.
- [30] The Female Genital Mutilation/cut Act 2011 (Government of Kenya)
- [31] Martha, N. (1999). *Sex and Social Justice*. Oxford: Oxford University Press