

***Exploring the Inalienable Rights of Children:
A Case Study of FGM to Highlight Gaps in Safeguarding Children in
the United States***

A project submitted to Middlesex University
in partial fulfillment of the requirements for the degree of
Doctor of Professional Studies [Children's Human Rights]

Connie Kristine-Klepper
MDX M00558008
Middlesex University
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Disclaimer:

The views expressed in this research project are those of the author and do not necessarily reflect the views of the supervisory team, Middlesex University, or the examiners of this work.

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Exploring the Inalienable Rights of Children: A Case Study of FGM to Highlight Gaps in Safeguarding Children in the United States

Abstract

This research set out to explore the gaps between legislation and front-line interventions in relation to the rights of the child through a case study of female genital mutilation (FGM) in the United States and the United Kingdom. Prosecutions for FGM have been rare and not successful and child abuse cases in the United States continue to rise in spite of a raft of legislation designed to prevent it. It was the intention of the research to use the findings on FGM to illuminate ways to address the gaps between legislation and child protection practices generally in the United States thereby helping both survivors of FGM and of child abuse and supporting routes to prevention to protect all children from abuse. The participants were drawn from a range of professionals involved in child safeguarding legislation and from those engaged in health interventions including midwives, physicians, psychologists, social workers and advocates some of whom are survivors of the practice of FGM. Extensive legislation and survivor literature were examined as well as narratives of trauma. Participants were invited individually and in small groups to speak about their practices, perspectives, processes and thoughts for the future. This approach was informed by narrative discourses in research and the data thematically analysed. The findings highlight differences between the United States and the United Kingdom in terms of legislation and approach, identify a range of challenges to be overcome systematically and present a set of possibilities which can contribute to reducing the gap between legislation and what happens in reality so that children's rights are protected and not subservient to the rights of parental authority.

Notes for the Reader on Citation and Referencing Conventions in the text

In order to represent all the different voices from my participants, the literature, legislation and my own emphasis I have used different quoting conventions.

1. For literature and other written sources:
 - titles of books, essays, articles etc within the text, are introduced without quotation marks.
 - lengthy quotes from sources are indented to the right with quotation marks.
2. For quoting participants:
 - Italics
3. For researcher emphases:
 - Single quotation marks
4. For enacted legislation, Conventions, Statutes, Acts, Treaties, Declarations etc., included in the text:
 - popular or official name of the act and the year of the act without quotation marks.
 - lengthy acts are introduced with the pertinent title or section of the segment, indented to the right and without quotation marks but footnoted
5. Verbatim lists from other publications
 - indented to the right without quotation marks but footnoted

The use of **kindle editions** and **electronic documents**. Due to a congenital impairment of eye sight, modern technology devices and software enabled me to more easily access, adjust and read text and graphics on the computer screen.

The use of footnotes. I have found this to be the most useful form of referencing when I am reading texts and reports and for that reason I have followed this convention for my own doctoral work.

1. Introduction to the work, the context and to the researcher as part of the context: Preparing for Discovery

Before I introduce the purpose of this research, I would like to share my position on the generally accepted use of the word ‘ignorance’ and my choice not to use it in this research account.

“Ignorance is a neglected topic in the study of social life. Most conventional accounts of this phenomenon treat it implicitly and assign it marginal or even outright negative status (usually in reference to its supposedly destructive consequences for human interaction or mental function).”¹ Smithson (1985) goes on to say that “ignorance, like knowledge, is socially constructed and negotiated.” I have chosen to use ‘knowledge gap’ which is closer to its etymological origins of ‘not knowing’ or ‘out of awareness’ and to avoid any pejorative weight that is given to the term ignorance. I became aware of a public knowledge gap specific to the general area I was interested in for my research before I had formally started my research, the dimensions of which had not yet been revealed but when they were it was a startling discovery. Two other words whose use and meaning have been controversial for some time are ‘victim’ and ‘survivor,’ although the experience that I gained through this research shows they are often used interchangeably simply because it is equally possible to be both. In this research I use the words that the participants use to be true to their voices when referencing their contributions.

When I was thinking about pursuing research into the practice of FGM and its presence in the United States, motivated by both my professional role in the healthcare system and personal considerations which are discussed more fully later, I began introducing the subject, both privately and publicly, into professional and social gatherings. Some of these people were acquaintances. However, the majority were people whom I knew well enough for them to be aware of my candidacy on the doctoral program and to be interested in my progress. Without exception they held higher education degrees ranging from Ph.D., M.D., to MBA, MPH, and the myriad of other acronyms representing the multitude of professionals in the health care industry. Without exception, the response was shock and then a questioning as to why this issue was important to me a white woman in a tone that implied it was not my business. The initial shock was usually followed by a comment that FGM is a practice under freedom of religion and to interfere or criticize or challenge it would be un-American. I was perturbed by this notion which for me indicated a startling public knowledge deficit. This gave me a broader motivation to turn an interest into a commitment to FGM as a focus of research which would highlight deficits generally in the ‘legislation to practice’ process on safeguarding children from all forms of abuse. I was to discover that both the knowledge gap and the implementation gap of legislation to practice, that is, the politics of public health and well-being, are not new and are worryingly widespread.

¹ SMITHSON, M. (1985) p. 151. Toward a Social Theory of Ignorance. *Journal for the Theory of Social Behaviour*, 15(2), pp.151-172.

One of the purposes of this research project, therefore, is to perform an educational function which is predicated on creating the conditions for the audience to be engaged and ready not only to listen but to hear, that is, to be persuaded. I know how important words are if one is to persuade an audience for I have been, and can be, just that person in an audience. Proscribing ignorance for myself and to an audience is not only antithetical to the didactic style of narrative and story, it is antithetical to both learning and teaching. This is something which has emerged out of my research engagement, a confirmation that my long-term practice of appreciating rather than castigating at the start of any act of persuasion had been intuitively right. This research project has been a journey of discovery, not only an experience for the me as the discoverer, but one that I can share through the retelling of the journey, a journey where learning and teaching evolved simultaneously, for learning is teaching yourself.

I have learned to articulate what has been implicit in my practice; that understanding improves when one is prepared for its meaning. I have found that much of what I discover is already known to me, and others, but without the connecting context of reflection, relevance and inclination, it remains without story; it remains untold and the dominant narratives of the powerful gain traction because they are disseminated into every living area on the planet through technology. Currently, in both the United Kingdom and the United States, cultures and societies are faced with a political climate of instability as a result of democratic election outcomes: Brexit for the UK and the Trump presidency for the US, yet both are the result of democratic process. Instability is a matter of perspective. My perspective is that there is nothing more galvanizing than the effect delivered by the power of the marginalized majority, ignored and unheard until their voices affect elections. Those who challenge the outcome of these elections may not fully comprehend their source and attribute to the majority an 'ignorance' and 'stupidity' around global politics and complexity while not themselves exploring the context of the decades of grievances that motivated their voting position. I am not saying that the prevailing voices are right, I am saying that the losing party may have lost because they chose not to understand the context of the many who felt marginalized and who in the end, prevailed. A knowledge gap is the obstacle to success of any kind. Many would say, given the outcome of these elections, that 'ignorance' is exactly what fueled the outcome of the elections but whose ignorance? Was it the voters who were not aware of the full implications of their choices or the succession of nominees who chose to keep out of their awareness the feelings and living conditions of substantial marginalized communities? How much was about obfuscation and lies, misdirection and the self-interest of politicians?

This research has been a route to increasing my awareness even if it has been uncomfortable and disruptive at times, even if it has succeeded in surfacing my assumptions and making them visible for me to question, sometimes painfully. Discovery is often painful as it can mean the letting go of long held beliefs and practices passed down from those who have gone before in an almost sacred way. But discovery is also an opportunity for new ways of seeing things and doing

things. As the researcher and professional practitioner, I shape and am shaped by the context. “Discovery is a matter of rearranging or transforming evidence in such a way that one is enabled to go beyond the evidence so reassembled to new insights.”² My aim is to persuade the reader with my discoveries hoping that they can offer something of value to their own long held positioning. It is a sharing not a telling.

“The discovery of truth is prevented more effectively, not by the false appearance things present and which mislead into error, not directly by weakness of the reasoning powers, but by preconceived opinion, by prejudice, which as a pseudo a priori stands in the path of truth and is then like a contrary wind driving a ship away from land, so that sail and rudder labor in vain.”³

Purpose of This Research

The purpose of this research project is to contribute to an understanding of inalienable rights of children as people, inexistence of their parents, through a persuasive narrative that then contributes to changes in how the United States views these rights in the contexts of how they are contravened in practice through such traditions as female genital mutilation (FGM) and the hidden and explicit practice of child abuse generally in what is considered one of the most enlightened countries in the world. I explore FGM, a traditional, cultural, harmful practice that is carried out worldwide and recognized by the World Health Organization, UNICEF and others as a violation of the human rights of girls and women. “More than 200 million girls and women alive today have been victims of this practice.”⁴ For those who disagree with the term victim, acceptance of cultural practices is complex and should not be equated with willingness. Women’s and children’s groups have mobilized across the globe around the health, social, cultural and legislative dimensions of FGM contributing to its recognition as a critical human rights issue. FGM has been a felony under US federal law since 1996 and the Center for Disease Control (CDC) reports that the number of girls under the age of 18 at risk has quadrupled since then and estimates that 513,000 girls and women in the US are at risk.⁵ This is a remarkable increase considering the presence of legislation and policy. I explore the practice of FGM to highlight the more general issues of child abuse in the United States, the legislation relating to it and the challenges of applying law in a broad range of acts of child abuse.

² Bruner, J. (1997) p. 82, 83. *On Knowing*. Cambridge/Mass. [u.a.]: Belknap Press of Harvard University Press.

³ Schopenhauer, A. and Hollingdale, R. (2004) loc. 1830. *Arthur Schopenhauer: Essays and Aphorisms*. (Kindle Edition) London: Penguin Group.

⁴ World Health Organization. (2018). *Female Genital Mutilation (FGM)*. [online] Available at: <http://www.who.int/reproductivehealth/topics/fgm/prevalence/en/> [Accessed 12 Aug. 2018].

⁵ Center for Disease Control (2014). *Child Maltreatment - Facts at a Glance 2014*. Child Abuse and Neglect. Center for Disease Control, p. <https://www.cdc.gov/violenceprevention/pdf/childmaltreatment-facts-at-a-glance.pdf>.

The U.S. Department of Health & Human Services' annual Child Maltreatment report released in 2016, 27th edition, compares the national rounded number of victims from 2012 (656,000) to the national estimate of victims in 2016 (676,000), showing an increase of 3.0 percent; another increase despite the presence of legislation and policy.⁶ Child maltreatment is a term used to encompass both abuse and neglect and is associated with physical injuries, delayed physical growth, neurological damage, psychological and emotional problems, such as aggression, depression, post-traumatic stress disorder, and death. This same report shows an estimated 1,750 children died of abuse and neglect in 2016, a rate of 2.36 per 100,000 children in the national population. Twenty years prior, in a report published in April 1995, of the U.S. Advisory Board on Child Abuse and Neglect, also a branch of the U.S. Department of Health and Human Services, reveals the opinion of its Advisors on their findings in its title: *A Nation's Shame: Fatal Child Abuse and Neglect in the United States*.⁷ In the Foreword, Deanne Tilton Durfee, Chairperson, goes on to say:

“Our study, discussions, review of material, and testimony from multiple States have revealed a problem far greater than previously realized. The cruel realization that parents and caretakers can kill their own children has been difficult for our Nation to face. Indeed, many who make policies, direct programs, and deliver services to children and families have found it difficult to accept. Yet, this is reality.”⁸

In its first report in 1990, the Board concluded that “the problem of child maltreatment in the United States had escalated to the level of a national emergency based on the alarming increase in the number of abuse and neglect reports and the negative consequences for society, especially for children.”⁹ Clearly, research by multiple nationally recognized institutions indicate that, in the U.S., child abuse in all its forms is endemic.

The questions I started out with, and as will be seen, became refined over time were:

- What are the reasons behind the failure of the U.S. to not only prevent the increase to the number of girls that are subjected to the practice of FGM, but to also decrease the numbers and eliminate the practice?

⁶ U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau (2017). *Child Maltreatment 2016*. Child Maltreatment - 27th Ed. [online] Washington DC: US Department of Health and Human Services. Available at: <https://www.acf.hhs.gov/sites/default/files/cb/cm2016.pdf> [Accessed 27 Apr. 2018].

⁷ *A Nation's Shame: Fatal Child Abuse and Neglect in the United States*. (1995). [ebook] Washington DC: U.S. Advisory Board on Child Abuse and Neglect. Available at: http://ican4kids.org/Reports/Nations_Shame.pdf [Accessed 28 Apr. 2018].

⁸ *Ibid.*, p. xv.

⁹ *Ibid.*, p. xxi. Foreword.

- What are the gaps between U.S. legislation and the failure to safeguard children from this harmful violation and child abuse in general?

Perspectives Explored in This Research

The perspectives on the practice of FGM that are researched and developed in this project are multiple. The implications for public policy, legislation, and education for establishing inalienable rights for children in the hope of making the United States a safer place for children, requires that I seek and prioritize different modes of knowledge and understanding of relevant experiences of those already at the front line of practice, including those of my own. This research project, which has required confronting the heartbreaking violence against children, has profoundly drawn on my own personal experiences, the voices of victims through stories, and those of professionals who work in the often grey and frustrating front line of the child protection system on a daily basis:

- Witnesses to the practice: the view of health and charity organizations that promote the rights of children and the elimination of human rights violations; and the stories already written by women from the communities that practice FGM, some survivors of the violation themselves.
- Legislation, and more specifically, Constitutional law. Constitutional law focuses on what the constitution says, what it means and what its limitations are.
- Professionals who through their recognized specialty of practice, are witnesses to the practice of FGM, already proximal to the cause, whose face-to-face responsibilities and experiences require a multidisciplinary knowledge of the health, social and legal realities of practice in the trenches.
- Literature from the realm of philosophy: philosophy establishes a position, a point of view, and then invites the reader into the development of a persuasive narrative, some call it an argument, supporting their position.

The Process Employed in This Research

This project emerged from the process of critical reflection, one that delivered a metanoic experience and the narrative identity that evolved from it. A metanoia is a “spontaneous, unpredicted transcendence; an awakening of shared intuition and direct knowing with the universe.”¹⁰ The reflective, reflexive and discursive processes that breathed new life into my resurrected ontology and sounded what I can only describe as a clarion call to this project, is also

¹⁰ Boje, D. (2011) p. 27. *Storytelling and the Future of Organizations*. New York: Routledge.

the method I used to engage, understand and translate the experience of professionals; discourses, epistemologies and identities found in literature and stories; and the all but silent voice of legislation. This method is narrative and storytelling. Narrative and storytelling “are two modes of cognitive functioning, two modes of thought, each providing distinctive ways of ordering experience, of constructing reality. Efforts to reduce one mode to the other or to ignore one at the expense of the other inevitably fail to capture the rich diversity of thought.”¹¹

I use the concept of a knowledge sufficiency framework to accumulate knowledge particularly relevant to the purpose and perspectives of this research. The framework aims to provide sufficient knowledge that exists currently in the realms of law, health and literature to address the knowledge and implementation of legislation to practice gap which it reveals, and to shape the argument for the inalienable rights for children. This framework is particularly useful for complex projects that utilize a large and diverse range of specialty knowledge sources with esoteric naming conventions, allowing analysis and interpretation to infer relationships among the sources, and then construct the resulting syntheses. I am familiar with this framework as it is one that I have used in practice for business development, software development, contract development and negotiation strategies. Zizek (2014) in his work, *The Most Sublime Hysteric Hegel with Lacan*, writes about a process of knowing and absolute knowledge by undertaking the readings of Hegel and Lacan:

“Knowledge is not breaking through to the substantial content – content that would supposedly be unaffected by the knowing process – the act of subjective knowledge is already included in its substantial “object”; the path to the truth is part of the truth itself. We can only notice, after the fact, that the state of things in question already existed, beforehand.”¹²

This process of knowing echoes Boje’s notions of the importance of the antenarrative; the history and the retrospective linked to living narrative.¹³ My interpretation of this is that knowing is the working out of the purposes of knowledge of ourselves and others, and, perhaps for some, a divine other, and that we set the process of knowing in motion; that we each seek knowledge to meet a purpose that is already in us, and that reflection of our past enables us to discern what we know and the direction that we can accept as the destination of our own strivings. Hegel’s (1988)¹⁴ notion is that even before we see the gaps, we know them, that is why we look for them, only to find that we also already know the complement to the gap. Hegel’s view of knowing and

¹¹ Bruner, J. (1986) loc. 148. *Actual Minds, Possible Worlds - Kindle Version*. Cambridge, Massachusetts and London, England: Harvard University Press.

¹² Zizek, S. (2014) p. 21. *The Most Sublime Hysteric - Hegel with Lacan*. Oxford: Wiley.

¹³ Boje, D. (2011) p. 102. *Storytelling and the Future of Organizations*. New York: Routledge.

¹⁴ Hegel, G. (1988). *Introduction to The History of Philosophy*. Indianapolis and Cambridge: Hackett Publishing Company.

the purpose and motion of knowledge, the history of the world, “is none other than the progress of the consciousness of freedom.”¹⁵

It would seem then important at this point to explain more fully my own antenarrative, the story before the story and provide two criteria of reliability for a qualitative researcher: that of transparency and the questioning of uncritiqued assumptions. I am responsible not only to myself but to others for the reliability of this research. I need to know myself and my motivations so that my work can be trusted. The following sections present the process of my reflection and its emergence from a subjective engagement with the ‘I’, to the ‘I–you’ and the ‘I–them’ arriving at the identity of ‘I’ in the ‘we’ of the world. In giving an account of this transformation I draw on two philosophers, Heidegger and Ricoeur, who have engaged deeply with the notion of individual identity and the notion of self.

Reflection and This Research

The birth of the idea for this research is the result of a reflective dialectic, one which started out guided by my own professional and personal voice which then collaborated with those of academia, other professionals and importantly those who depend on legislation to protect them. This weaving together of voices of knowing in different ways moved me towards a metanoia. In other words, what I thought I knew and understood about who I am and how I know what I know, and the accumulative effect on my relationships with both myself and others, experienced a metanoic transformation. Reflection took me on a disturbing path into the abyss of meanings that has been leading to recognition, acknowledgement, acceptance and resolution of the challenges I have been shouldering and battling my whole life. I engaged a range of historical and philosophical voices through literature; voices of clinicians, educators and legislators through documents; the voice of my child as an adult, and finally but foremost, a metanoic voice, creating a symphony of hermeneutic utterances whose collective resonance developed meaning for my present from my past, creating a harmonized coherence that became the narrative voice of this research and I want it to more than echo into the future.

Recontextualizing events that influenced my formation, events that could be called “epoch-making, draw their specific meaning from their capacity to found or reinforce”¹⁶ my consciousness of my identity blended with those of resonant others, resulting in my narrative identity. “For whereas things that have qualities, have with their nature received both birth and dissolution, the [archetypal] potencies which mould them have obtained a lot transcending

¹⁵ Hegel, G. (1988) p. 22. *Introduction to The History of Philosophy*. Indianapolis and Cambridge: Hackett Publishing Company.

¹⁶ Ricoeur, P., Blamey, K. and Pellauer, D. (1990) p. 187. *Time and Narrative, Volume 3 (e-book)*. Chicago: University of Chicago Press.

dissolution.”¹⁷ These events generated feelings of considerable behavioral intensity, “whether this be fervent commemoration or some manifestation of fear, or indignation” or of pride or shame, “or of regret or compassion, or even the call for forgiveness.”¹⁸ Each voice became a constituent element of what I can only describe as a sonorous mosaic of understanding, compassion, forgiveness and hope. The evolutionary coherence of my professional, personal and academic experiences through reflection produced a life changing onto/epistemic understanding of myself and my way of being in the world with others helping me to more authentically translate myself into the world and account for the being that informs my doing. I would suggest that when learning through reflection results in a coherence of and between all parts of an individual’s doing and being in the world, it raises levels of consciousness which give confidence to will and enhance an individual’s potential to change the environments in which they play out their existence. “Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it’s the only thing that ever has.”¹⁹

Reflection as a Narrative Framework

This antenarrative is an exposition of both the self- and social-consciousness which revealed itself during the required component of reflection on self as change-agent as part of the development of a practitioner researcher for this doctoral program. It required a comprehensive review of my history and provided the conditions to critically engage myself and develop an understanding of how my experiences contribute to the values and perspectives that influence my professional and personal practices; a reflective understanding of who I am and how I perceive the realities in which I function: my “ontological stance.”²⁰ A narrative recollection of my past self, narrated by my present self, developed reflexive visual and auditory modalities, reflective forms of sensory perceptions of “events” of my past that I “hold to be significant” because I “see in them an origin, a return to my beginning.”²¹ Reflective activities, “which is well expressed by the verb “to retrace”... are the activities of preserving, selecting, assembling, consulting, and finally, reading documents and archives, which mediate and, so to speak, schematize the trace, making it the ultimate presupposition of the reinscription of lived time...time with a present.”²²

¹⁷ Mead, G. (2016) loc. 3834. *Thrice-Greatest Hermes Volume 1-3 (Kindle Version)*. Kessinger Publishing.

¹⁸ Ricoeur, P., Blamey, K. and Pellauer, D. (1990) p. 187. *Time and Narrative, Volume 3 (e-book)*. Chicago: University of Chicago Press.

¹⁹ Mead, M. (n.d.) loc. 241. *Coming of Age in Samoa*. (Kindle Version) New York, London, Toronto, Sydney: Harper Perennial.

²⁰ Middlesex University London (2017). *Doctor of Professional Studies Programme Guide*. Part 1, Research & Researcher Development Period and Part 2 Research Project Period. London: Middlesex University London.

²¹ Ricoeur, P. and Blamey, K. (1990) p. 187. *Time and Narrative, Volume 3 (e-book)*. Chicago: University of Chicago Press.

²² *Ibid.*, p. 183.

Ontology Revealed Through Reflection

In *Being and Time* (2001)²³ Heidegger posits that “an inquiry into meaning of being must be formulated;²⁴ that inquiry itself is the behavior of a questioner; and the questioner as such has its own character of being...and must be guided beforehand by what is sought.”²⁵ Heidegger’s position is not dissimilar to Ricoeur’s elementary stage where “identifying is not yet identifying oneself but identifying ‘something’.”²⁶ Thus, to work out the question of my ontology adequately, I must make myself “transparent” to myself.²⁷ My reflective narrative begins with experiences from my childhood as they represent the beginning of my presence in this world and some remain influential in my adulthood. I was born a warrior. This archetype seal or model that resonates with me is what philosophers refer to as ‘ontology’ and is not only perceptible in my intellect, it is perceptible in the patterns of my being in the world, the pattern of my thoughts revealed in my behaviors. Heidegger posits that we each have two modes for “being in the world, an inauthentic self and an authentic self,”²⁸ both ontical representations of our ontology; the “inauthentic self” is our first way of being in the world and refers to this first mode as the “they-self,”²⁹ the they-self because we are not each ourselves but are lost in the they-selves which are behavioral modifications of the authentic selves that are developed and led by the others in the family, culture and world into which we each are born. This they-self is established by the words and behaviors of the others, the theys, and initially becomes our “everydayness of being with one another.”³⁰ We are all born into a social construct and our default nature is to become that which is proximal to us: we default to ‘fitting in.’ Heidegger proposes that the authentic self is ontologically who each of us is born to be, the selfhood of each, and that the they-self is a departure from this selfhood: “it flees in the face of itself into the they³¹... and evades its authentic potentiality for being.”³² This ‘fugitive’ state of the they-self is the result of the ‘oppression’ we each feel from our own “insignificance” in the world, that we are “nothing and nowhere...within the world.”³³ Herein lies the rub, the ‘they-self’ is not the external, greater world, it is the others “proximal” ‘to us’ in the world who are also the ‘they-selves.’³⁴ Every one of us, at least initially, dons disguises to fit in a cohort of ‘they-selves’ from our proximal worlds. What oppresses us is not the proximal worlds, per se, it is the anxiety that accompanies the disclosedness, the potentiality, to actualize our authentic self in the greater scheme of things in

²³ Heidegger, M. (2001). *Being and Time* (Kindle version based on the print edition). Oxford: Blackwell.

²⁴ Ibid., loc. 356.

²⁵ Ibid., loc. 352.

²⁶ Ricoeur, P. and Blamey, K. (2008) p. 27. *Oneself as Another*. Chicago, Ill. [u.a.]: Univ. of Chicago Pr.

²⁷ Heidegger, M. (2001) loc. 446. *Being and Time* (Kindle version based on the print edition). Oxford: Blackwell.

²⁸ Ibid., loc. 1611.

²⁹ Ibid., loc. 4486.

³⁰ Ibid., loc. 4522.

³¹ Ibid., loc. 10502.

³² Ibid., loc. 10525.

³³ Ibid., loc. 6334.

³⁴ Ibid., loc. 4507

the “world-as-world” and not disguised as a fugitive in the proximal world.³⁵ Heidegger uses the term “‘disclosedness’...to...signify to ‘lay open,’ and the ‘character of having been laid open.’” Thus, ‘to disclose’ never means anything like ‘to obtain indirectly by inference.’³⁶ This anxiety is constant and arises in our everydayness. However, our authentic self’s thereness is felt most acutely when we are most lost, when we do not understand ourselves; when we don’t understand who we are; when we feel unloved; when we feel no one understands us; when we feel different from the rest of those proximal to us; when we feel we cannot disclose who we are and who we want to be: when we do not know, or cannot find, the way to be our authentic self.

For me, my ontology is the transcendence of my Being in being in this world; my ontological capacity is my ability to be that which I am, my ability to know, my ability to understand, my ability to experience; my ability to live up to my ontology. Ontical representations are my ontological being in action. Ontology is the capacity of being, ontical is the potential of being. When potential is actualized, it becomes empirical, an ontical representation, “a factual matter open to observation.”³⁷ An ontical representation is constitutive of ontology, “a determinate character of existence:”³⁸ “the potential or possibility through which ontology shows itself.”³⁹ This is not dissimilar to Ricoeur’s answer to the question: “what sort of being is the self?” Ricoeur posits that language expresses being, “...that existence is itself a mode of interpretation: life interprets itself...that the meaning of being is always mediated through an endless process of interpretations – cultural, religious, political, historical and scientific.”⁴⁰ Hence our thoughts, our words, our actions, our behaviors reveal potentiality, ontical interpretations of the capacity that is our ontology: it is ontology incarnate.

The finale of the above interpretation of Heidegger’s dialectic and my understanding of it, is that the potential that each of us has to actualize our ontological being, to uncover, to understand and make meaning of our authentic self, is the purpose, perspective and process of ‘reflection.’ We encounter and become transparent to ourselves during reflection. “Basically, all ontology, no matter how rich and firmly compacted a system of categories it has at its disposal, remains blind and perverted from its own most aim, if it has not first adequately clarified the meaning of its

³⁵ Heidegger, M. (2001) loc. 6345. *Being and Time* (Kindle version based on the print edition). Oxford: Blackwell.

³⁶ Heidegger, M. (2001) loc. 2722. *Being and Time* (Kindle version based on the print edition). Oxford: Blackwell.

³⁷ Bunnin, N. and Yu, J. (2009) p. 489. *The Blackwell dictionary of Western philosophy*. Malden, (MA): Wiley-Blackwell.

³⁸ Heidegger, M. (2001) loc. 645. *Being and Time* (Kindle version based on the print edition). Oxford: Blackwell.

³⁹ Inwood, M. (2000) p. 92. *Heidegger: A Very Short Introduction* (Kindle Version). Oxford, New York: Oxford University Press.

⁴⁰ Ricoeur, P. and Brennan, E. (2005) loc. 112, 113. *On Translation*. (Kindle Version) New York: Routledge.

being, and conceived this clarification as its fundamental task.”⁴¹ We each must reflect upon ourselves, go within to uncover each our determinate capacity for our authentic self, our self-agency, uncover the self that we are born to be yet disguise with the mask of the ‘they-self’; interpret our own self and make meaning of it. It is when we uncover the ‘authentic self,’ interpret and make meaning of it that we begin to understand the capacity and potential of our own ontology, an ‘a priori’ enigma of being that transcends each of us into this world, to become human. To be truly human then is a transcendental being with its own capacity and potential to develop and be within the world, selfhood with worldhood, the temporality and universality of being, self and others informing our way of being in the world. Ricoeur brings wholeness to and completes this introduction of duality of self and other that formed the narrative identity that was uncovered and further evolved during reflection; the narrative identity as one of the many authors of this research: “the selfhood of oneself implies otherness to such an intimate degree that one cannot be thought of without the other, that instead one passes into the other...”⁴²

My Ontology

My independence, my self-agency, and the freedom to seek and develop a personal autonomy in concert with the democratic principles of my home country, the United States, while battling the will of others who would attempt to rule me, has been a life-long war with the world and the time in which I live. ‘Popped out of the womb with both fists up’ is a term used by Dr. Kate Maguire, my supervising professor, when describing a personality trait that she believes I share with her mother, in addition to our Scottish heritage. Or, another that resonates with me, “I was not born to be forced. I will breathe after my own fashion. Let us see who is the strongest.”⁴³ In 1960, I was born into a violent, persistently hostile family environment. Both of my parents were verbally and physically abusive. As a child, I had no sustainable physical or emotional escape from their tyranny and no family relative, teacher, policeman nor person of authority ever made a credible attempt to protect or rescue me from my parent’s harm. I had learned to negotiate certain aspects of my parents’ behavior when I was very young, to limit the physical damage of their attacks. With my mother, if I ran or tried to escape while under attack, she ‘may’ let me escape physically but then barrage me with verbal assaults which were far more preferable to the modes of physical assaults. With my mother, physical assaults did not usually last long; in most situations she would quickly move on to some other attraction. These frequent violent episodes, I came to understand later in life, were the behaviors of a woman with borderline personality disorder. With my father, if I dodged or ran, the beatings were worse when he caught me, and he always caught me. Where was there to go? Even when the police were called by neighbors they

⁴¹ Heidegger, M. (2001) loc. 574. *Being and Time (Kindle version based on the print edition)*. Oxford: Blackwell.

⁴² Ricoeur, P. and Blamey, K. (2008) p. 3. *Oneself as Another*. Chicago, Ill. [u.a.]: Univ. of Chicago Pr.

⁴³ Thoreau, H. (2000) loc. 227. *On the Duty of Civil Disobedience - Kindle Version*. Bedford, Mass.: Applewood Books.

just came and went while I remained with the perpetrators. I learned that if I stood still, eyes level, not lowered in defeat or raised in defiance, just level in resolve, the physical attacks could lose steam quickly and maybe not happen at all. This did not prevent verbal assaults, but as I matured into my teen years, it could mitigate physical assaults. I could steady and ready myself with words or behaviors that reflected a knowing resolve that sometimes affected my father's behavior. My resolve was to be brave, not stupid. It was stupid to run. I could endure with a degree of dignity. My father had a long ancestry of angry, mean alcoholics and had become one himself. I have a childhood filled with lacerations from wire coat hangers; deep bruises from blunt and thrown objects; puncture wounds from fingernails; blackened eyes and bloodied nose from directed hits or flailing arms. I have been held under water and had a gun held to my head or placed on a table in front of me as coercive means to gain information or an admission of guilt about some household infringement that I may or may not have committed. No matter how hard I tried, I could never become 'the good girl,' one who received love instead of pain. I could never please them. All I could try to do was avoid their attention or manage my behavior in the face of their aggression to minimize damage. "I, schooled in misery, know many purifying rites, and I know where speech is proper and where silence."⁴⁴ – Aeschylus

Victor Frankl's work, *Man's Search for Meaning* (2006), contains a litany of behaviors he adopted to survive the Nazi concentration camps, behaviors which I recognize, some of which I had adopted to survive my parents. In my childhood, my parents were proxy for mad, unboundaried dictatorship.

"It was, therefore, in an attempt to save one's own skin that one literally tried to submerge into the crowd. This was done automatically in the formations. But at other times it was a very conscious effort on our part—in conformity with one of the camp's most imperative laws of self-preservation: Do not be conspicuous. We tried at all times to avoid attracting the attention of the SS."⁴⁵

The ever-present pendant risk in my childhood was the chronic inflammation of my parents' minds. For them, the glass was not half full or half empty, it was shattered in tiny pieces on the ground. Their children became the unfortunate receptacles for their pathology of pain, anger and disappointment. With my mother, I feared for my limbs, with my father, I feared for my life.

I grew up an avid reader. I loved the classic fantasy books of J.R. Tolkien, Anne McCaffrey and James Herriot a British veterinary surgeon who wrote a series of books about his experiences of a lifetime in professional practice, each consisting of stories about animals and their owners, from *If Only They Could Talk* (1970), to *All Creatures Great and Small* (1972), to *The Lord God*

⁴⁴ Aeschylus (2016) p. 20. *Aeschylus: Quotes and Facts* (Edited by Blago Kirov). 1st ed.

⁴⁵ Frankl, V. and Kushner, H. (2006) p. 50, 51. *Man's Search for Meaning* (Kindle Edition). Boston, Mass.: Beacon Press.

Made Them All (1981) and Every Living Thing (1992). These authors and more were introduced to me at a young age by my maternal grandmother, a Scot from Aberdeenshire who immigrated to America in the late 1920's. My grandmother was an avid reader and story teller and during far too infrequent visits to my childhood homes, would tell me stories from her childhood. One that I carry with me, that I tell myself when I want to soothe myself into thinking that somewhere in me there is DNA to which I can relate, stems from a time when her father, who served in one of the Royal British forces, was stationed somewhere in Cork, Ireland in 1917 and the family accompanied him. She was 12 years old when she arrived in this violent period of Irish history when the Irish were fighting for independence while 300,000 Irish troops were fighting with British forces against Germany. As a child she did not understand at first why rocks were being thrown at her and her younger brother by Irish school children, but my grandmother would defend herself and her brother by 'giving back as good as she got.' My grandmother had a beautiful singing voice and one day in the Irish school, the principal came round to her classroom with some VIP and the teacher asked my grandmother if she would give them a song, "give us a song, Lou" my grandmother recounted. She resisted at first but with more goading, stood up and sang "God Save the Queen" which by this time she knew would cause a stir for children of families fighting for a free Ireland. She said, "It was met with utter silence." The rock throwing that day on the way home was more than usual but worth it. That day, she had 'given more than she got'. I love that story. My grandmother was a warrior. I like to think that I am like her. I regularly escaped into those stories where the themes resonated with me, the plots and characters in terms of underlying archetypes such as the villain, the hero, the sacrifices of love and loyalty; where the smallest of creatures could wield the greatest power and conquer the large and powerful, and where in the end, good triumphed over evil. Conquering evil. Loved that stuff.

Growing up in the 1960s and 1970s, my formative years were spent experiencing on the one hand, tyranny in the home from both a male and a female, and on the other hand, feminist activism in the streets. This second wave of feminism which began in the 1960's not only addressed political and social equality, but questioned traditional assumptions about gender and sexuality, further highlighting the values promised to all in the Declaration of Independence.⁴⁶ However, the challenge has been and remains in the translating of the values enshrined in the Declaration into legislation, and further, into every day practices. From as young as I can remember, these feminist movements spoke to me. I loved reading stories about the purpose and establishment of the Declaration of Independence, the Constitution and the Bill of Rights. All of the stories I enjoyed hearing over and over again, and the books I enjoyed reading as a child, both fantasy and legislation, embodied the notion of one's rights; that all creatures great and small are created equal; that all are endowed by their creator with certain inalienable rights; that

⁴⁶ Gillis, E. (2009). Feminist "Waves" and the Question of "post-Feminism." *SMU, Dedman College of Humanities & Sciences, Scholarship and Awards*, [online] 2009 - 2010. Available at: <http://www.smu.edu/Dedman/Academics/Programs/WomGenStudies/ScholarshipsandAwards/PastWinners/GillisEssay> [Accessed 24 May 2018].

whenever any form of power becomes destructive of these rights, it is the rights of the one or the many to alter or abolish it; to create a foundation of promise of such powers and principles that establish the commitment to liberty, safety, justice, and freedom for all. Throughout my childhood, I dreamed of freedom. I felt my spirit was being crushed as if my body was managing to live but I was in danger of dying inside.

“It can be readily understood that such a state of strain, coupled with the constant necessity of concentrating on the task of staying alive, forced the prisoner’s inner life down to a primitive level. Several of my colleagues in camp who were trained in psychoanalysis often spoke of a “regression” in the camp inmate—a retreat to a more primitive form of mental life. His wishes and desires became obvious in his dreams.”⁴⁷

Hegel (1988) provides a story that explores the development of the consciousness of a universal spirit of freedom that transcends the world and its effect on the development of freedom in both society and an individual through the growth of a self-consciousness that resonates with my own story:

“The final goal of the world is Spirit’s consciousness of its freedom, and hence also the actualization of that very freedom.”⁴⁸

The goal of the innermost conscious drive of the spirit is that the purpose of its existence and business of the world is the work of bringing freedom to consciousness. “And this goal is none other than to find itself, to come to itself, and to behold itself as actuality.”⁴⁹ Spirit is the essence, the mind of the divine world, the universal, perhaps even that of a divine being such as what for Hegel would be the Christian God.

“While matter has its “substance” [i.e., its source of support] outside itself, Spirit is autonomous and self-sufficient, a Being-by-itself. But this, precisely, is freedom—for when I am dependent, I relate myself to something else, something which I am not; as dependent, I cannot be without something which is external. I am free when I exist independently, all by myself. This self-sufficient being is self-consciousness, the consciousness of self.”⁵⁰

⁴⁷ Frankl, V. and Kushner, H. (2006) p. 28. *Man's Search for Meaning (Kindle Edition)*. Boston, Mass.: Beacon Press.

⁴⁸ Hegel, G. (1988) p. 22. *Introduction to The History of Philosophy*. Indianapolis and Cambridge: Hackett Publishing Company.

⁴⁹ *Ibid.*, p.27.

⁵⁰ *Ibid.*, p. 22.

Perhaps, as a child, feeling I was dying inside was an experience of consciousness of self which in the end sustained me and helped me to become free of the they-self.

I did not enjoy school, especially high school. I never felt that I fitted in. However, I looked forward to going every morning because it represented a form of freedom, it got me out of the house, away from the pendant threat that I woke to every morning and went to bed to every night. I dreaded the bus rides home as they never lasted long enough. My parents got divorced from each other for the second time in 1977, the fall semester of my junior year and my father moved to another state. The only remaining physical threat in my life at that time was my mother and she had become less so in my mid-teens, However, her emotional terrorism enjoyed a heightened renaissance in any social life I tried to establish. Her behavior made it difficult to develop a healthy social life beyond that of my jobs. If I tried to attend a friend's party after school or on a weekend, or just hang out, she would sometimes find out, show up and cause a scene to embarrass me which forced me to leave and go home with her. I did not graduate high school. In the final quarter of my senior year I failed two elective classes, gym and a cooking class, and I did not receive my diploma. I could have attended summer school to complete the failed credits, but I did not. I had three jobs and going to summer school would have required I give up one or two of them. I would not. I needed the jobs to earn the money to pay for my freedom. With money I had saved over the years from working a myriad of jobs since the age of 10, and with the help of friends, I escaped the daily trauma of my parents that summer at the age of 17. I did not see either parent much after 1980. My father was shot and killed by a family member in 1979 and I moved several states away from my mother in 1980. Except for a sister, I remain estranged from all relatives and everyone else who may have known me, or my parents, in my childhood years.

In the years immediately following my escape, similar to Hegel's philosophy on the self-consciousness of freedom, I developed behaviors that represented a freedom informed by my individual situation, and made decisions using the experiences born in the era of my parent's tyranny. I was fiercely independent, I knew my rights, and met the challenge head on if anyone even gave the appearance that they may tread on me. My warrior was designed for challenges and was a natural problem solver. Not only was I designed for it, I had almost two decades of experience successfully navigating daily physical and emotional adversity. "In the same way that the realities of torque, weather, temperature, gravity and other things put demands on a metal that it has to meet in order to perform and not crash, there are realities that put demands on people that they have to meet in order to perform and not crash as well."⁵¹

⁵¹ Cloud, H. (2009) p. 23. *integrity - The Courage to Meet the Demands of Reality (Kindle Edition)*. HarperCollins e-books.

My Professional Practice

I have been an executive level change-agent in the healthcare industry for the past 27 years or so of my career. I did not start out as a professional change-agent, I became one. My warrior ontology, informed by my experiences born in the practice of navigating a dangerous family environment and the fantasy and legislative narratives I embraced early on in childhood, was perfectly designed for change-agency. I have worked many jobs starting with babysitting at the age of 10 and have had as many as three jobs at once over the years. Money buys security and freedom and I wanted control of both. Always. Jobs were one of the places I could escape to for relief from my home life and I learned to develop relationships there that were reciprocal in nature; a ‘work for rewards’ life strategy. I could be the ‘good girl.’ I accepted criticism and modified accordingly to achieve negotiated rewards. I did not enjoy the criticism and more times than I like to admit, struggled accepting it constructively. I still do but I always process what is said. However, I process it with my own filter, my own values; I metabolize it nurturing myself with the bits I value and eliminate the rest as toxins. I have also never felt threatened at work, certainly not the type I experienced at home. At home I was prey, not because I was born as such but because I was prey in the presence of my parents’ rage. In the work environment, with my integrated ability and authentic potential actualized, I was a warrior; I was not prey. It never crossed my mind that there was anything that I could not do if I put my mind to it. The contrast of my ‘they-self’ identity at home and the ‘they-self’ at work disclosed my authentic self, the kind of person I know that I am and can be. I quickly adapted and learned to manage my professional relationships with a congruence that I had never experienced but imagined in my home life. My career in health care has been spent leading start-ups and turn-arounds; forging new markets; driving profound change and adapting to new forces and opportunities. I quickly assess situations and selectively employ information to gain and maintain advantage. I am persistently sensitive to the environment and people, details and timeframes, goals and rewards, so I can effectively strategize the knowledge and cultivate and negotiate rewarding behavior accordingly. I have an in-the-trenches style and relentless tactical energy. I have not learned from degrees and courses. I have learned from practice, from research relevant to each and every sector in which I have worked, and from experiences with people and with artefacts from law to contracts, from strategy to operations, and from innovation to financing and productization. A PhD thesis by Alastair Rylatt (2012)⁵² revealed the number one capability that differentiates high-performing change-agents from the general population of executives:

“Take responsibility for resolving difficult challenges.

Exceptional change agents become energized by complex problems. They research best practices and keep up-to-date on the latest thinking. They believe they have the

⁵² Rylatt, A. (2012), *Individual commitment over time: Tensions and paradoxes of making meaning within the context of ecological sustainability*, Doctor of Philosophy (PhD) thesis, University of Technology Sydney.

choices, capabilities, and resources they need to drive action. Personal qualities related to the ability to resolve difficult challenges appear to stem from an accumulation of life experiences that have shaped belief in their ability to overcome any obstacle. They tend to stay steady and do not flee when the going gets tough.”⁵³

I identify with everything in Rylatt’s statement. Early in my career I developed confidence in my ability to learn vast quantities of information on diverse subjects from multiple sources, metabolize it and, through brief periods of trial and error, effectively apply it with successful outcomes. I love researching topics, discovering evidence that will support or challenge my positions, organizing the facts and then weaving them with my past experiences into a digestible plan that will marshal efforts to learn, and then lead and execute with applied intelligence and confidence. I architect and continually develop a reservoir of experiential references and context that I repurpose using my mind and methods that are not regulated by anything other than my own values. I do not restrict myself to learning from a recognized person or institution of authority. I immerse myself in an activity and I observe, assess and learn from multiple sources; I learn from people and their experiences and industry specific and general reference materials. My ability to assess situations and people, to apply critical thinking using knowledge and experience to recognize and solve problems in the face of adversity, was honed navigating and surviving a violent and hostile family environment. In my professional world, I use criticism as a weapon given to me, not one used against me. People tell me what they are thinking through words and behaviors. Criticisms and rewards are fertilizer for positive growth. My mind devises targets, strategies and tactics that I contemporaneously apply in concert with my experience reservoir, and again later through reflection. I am the common denominator in everything I think and do. I am responsible. The value of my ontology is rewarded in professional practice.

My Personal Practice

Everyone’s personal practices and private worlds are complex. Analyzing them, understanding them and making meaning of them is without end. The personal and professional are in a constant dance with each other whether we believe we have compartmentalized them or not.

Before reflection, I knew there was a gap in my way of being between my professional and personal practice. I thought I had compartmentalized but time revealed that I was not succeeding in this. I was using my professional busy life to avoid challenges in my personal life. I asked myself questions about how much my childhood experiences were affecting my personal life. I could resolve poverty, identity, status and security needs through my professional life, those early stages of Maslow’s (2012)⁵⁴ hierarchy of motivation and needs but could not resolve my

⁵³ Rylatt, A. (2013). *Three Qualities of Highly Successful Change Agents*. Association for Talent Development, [online] (July). Available at: <https://www.td.org/magazines/td-magazine/three-qualities-of-highly-successful-change-agents> [Accessed 18 Oct. 2018].

⁵⁴ Maslow, A. (2012). *A Theory of Human Motivation*. Lanham: Start Publishing LLC.

personal life challenges, the love and belonging needs, in the same way. Through reflection I was aware that childhood trauma had impacted my sense of personal value. My emotions were a never-ending roller coaster ride of defend and protect, surrender and recede. I have no problem holding my parents responsible for their behavior. I have no problem sharing my experiences of them as their child through the eyes of my adult. I hold them accountable. However, everyone else in my personal life is not accountable for my presence on the ride and I will not expose or blame them for my behavior. I am the common denominator in everything I do; I know that being an adult in the United States is a privilege that affords me freedoms to choose how I will engage and react to what life throws at me; that in the end, after all is said and done, I am accountable.

“Forces beyond your control can take away everything you possess except one thing, your freedom to choose how you will respond to the situation. You cannot control what happens to you in life, but you can always control what you will feel and do about what happens to you.”⁵⁵

I feel this accountability not only in my professional and personal relationships and actions but as a member of a wider community. I have always facilitated my work teams to develop and accepted responsibility for their development. I enjoy supporting friends and causes. I cannot complain about my society if I contribute little to the holistic development of its members. I believe in institutions which in principle guide and protect but, as many professionals know across different sectors, the gap between principles, policy and implementation is wide and frustrating. Principles have a role in setting the bar but are redundant otherwise if they only exist as principles and are not translated into practices that improve the lives of society members. Principles have to have an effective operational apparatus if they are to avoid becoming ancient stones. My childhood has affected my choice of research because I know the damage that abuse can cause and in spite of a plethora of principles in place to protect the child none of them were implemented in my case and in the case of many others. What has endured from my childhood, along with the pain, is the deep influence of an enabling and decent adult, in my case my grandmother; for others it is a teacher, or a neighbor or an aunt, and something whose name I have learned through this critical reflection: I have been met in my life with many incidents of grace. “Grace is love that seeks you out when you have nothing to give in return; it has nothing to do with weights and measures; it has nothing to do with my intrinsic qualities or so-called gifts; it reflects a decision on the part of the giver, the one who loves, in relation to the receiver, the one who is loved, that negates any qualifications the receiver may personally hold...Grace is one-way love.”⁵⁶

⁵⁵ Frankl, V. and Kushner, H. (2006) loc. 29. *Man's Search for Meaning (Kindle Edition)*. Boston, Mass.: Beacon Press.

⁵⁶ Zahl, P. (2007) loc. 494 - 497. *Grace in Practice*. (Kindle Version) Grand Rapids, Mich.: William B. Eerdmans Pub.

I believe the love of my grandmother and the many gifts of grace that transcend my being in this world have helped me not to end up like that described by Lewis (2009) in “The Screwtape Letters”...

“...Nothing is very strong: strong enough to steal away a man’s best years not in sweet sins but in a dreary flickering of the mind over it knows not what and knows not why, in the gratification of curiosities so feeble that the man is only half aware of them, in drumming of fingers and kicking of heels, in whistling tunes that he does not like, or in the long, dim labyrinth of reveries that have not even lust or ambition to give them a relish, but which, once chance association has started them, the creature is too weak and fuddled to shake off.”⁵⁷

...but as someone who endures and learns every day of my life through and with others.

“He who learns must suffer. And even in our sleep pain that cannot forget falls drop by drop upon the heart, and in our own despair, against our will, comes wisdom to us by the awful grace of God.”⁵⁸ – Aeschylus

It has been of profound importance to me to take on this project for the right reasons and in the right frame of mind; to enable stories and narratives and not direct them for my purposes; to meet the challenges without prejudice or anger but with respect for limitations of context and with grace and appreciation for the trust, time, and sharing that I would be requesting from participants. It is my responsibility to be accurate and honest and I am accountable for the integrity and reliability of the work. Meeting and discussing the issues pertaining to child abuse and FGM in particular had to be accompanied by a constant updating of my growing knowledge of FGM and the law and what it means to different people in different contexts; what a range of U.S. and U.K. legislative documents, declarations, guiding principles and commentaries actually state rather than what has emerged from mythologizing them and what narratives, cultural studies and other forms of pertinent literature can tell me about it. My initial readings informed not only my research design but checked the validity of doing this research in the first place. The following chapters attend to the validity, the ethics, the research design and analysis, and the intricate relationship which emerged between these four dimensions of the research. The coherent thread is the reasoned argument for the practice of FGM to be prevented not only prohibited, the way this may be done and how this way may contribute to the prevention of child abuse generally which is endemic in my country today.

⁵⁷ Lewis, C. (2009) p. 60. *The Screwtape Letters*. (Kindle Version) Pymble, NSW: HarperCollins e-books.

⁵⁸ Aeschylus (2016) p.19. *Aeschylus: Quotes and Facts (Edited by Blago Kirov)*. (Kindle Version) 1st ed.

2. Ethical Considerations

For many years I have had the notion that I wanted to do something about child abuse in the United States, a vast and varied area of shame which falters consistently in steps towards reduction and indeed eradication. Through the years when I encountered child abuse during the course of my professional work, in those moments I did not readily see the integration point of my professional practice with the prevention practice of safeguarding children generally. FGM presented itself as a possible case study through which I could explore more deeply the obstacles to progress on the prevention of child abuse. It is a smaller, more specific population which could lend itself to doctoral level research and from which findings could be of benefit to the individuals, agencies and institutions involved in child abuse prevention generally. I was keenly aware at the outset that this could be construed as the targeting of an immigrant population in a climate of anti-immigration sentiment, one of the constituencies which had brought the current United States President to office. The question often raised by white people and members of communities practicing FGM, when white people get involved in this issue, is ‘what business is it of yours? You won’t understand, and you are not respecting the right to follow beliefs. It is racism.’ White people evoke the ghosts of colonial pasts which still haunt contemporary societies because trauma and behaviors are passed down through generations facilitating or inhibiting change. I have grown to respect the weight of that point of view but cannot accept any justification for the practice of a brutal act perpetrated on a female’s or a female child’s body that has such dire consequences for their physical, sexual and mental health; an act that I hope to prove through this research is a clear violation of their inalienable rights. As a woman and as a human being I can accept there are explanations of the practice, but I can never accept there is a justification other than that of necessary surgery based on rigorously assessed health issues such as cancer of the female genitalia. I recognize that FGM is a complex issue and it is appropriate that I seek to find out as much as I can about FGM from a range of voices and not sit smugly with the outrage it engendered deep in my being. The outrage I felt upon my discovery of the practice of FGM which was through a New York Times article, *A Fight As U.S. Girls Face Cutting Abroad*⁵⁹ posted in 2014, at this point had only the substance of my own childhood experiences of physical and emotional abuse, and that which resulted from limited encounters with healthcare provisions in my professional roles, which by their nature functioned at a distance from the front lines of any services seeking to prevent harm towards children. FGM is a phenomenon, it is a practice supported by a mindset that sits in a constructed reality where many voices speak but not all are heard. I became interested in eliciting voices, marginalized voices, voices that were silenced when I was young and in need of them.

⁵⁹ The New York Times (2014). *A Fight As U.S. Girls Face Cutting Abroad*. [online] Available at: <https://nyti.ms/2k1Zslj> [Accessed 7 Feb. 2017].

Outside In

I am not an insider researcher in that I am not a survivor or a member of a community or culture practicing FGM. I thought I was not from a part of the world where those practices exist but in fact I am. FGM exists in the United States; it is a form of harm which can be added to the myriad of harms against children which already exist in my country which declares a powerful stand on human rights in its Constitution. Human rights has been one of the most advanced steps humankind has taken in the last 100 years. It has paved the way for many marginalized groups and those silenced by power structures and ideologies that enslave, to be enabled and emancipated. Human rights are:

“...rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.”⁶⁰

These ideals, these principles are enshrined in law to safeguard the people from themselves and from others who would seek to harm them. Behaviors criminalized through legislation have become the way we impart principles at the national and state levels which unfortunately brings a limited perspective to the broader framework of principles. Laws should not create principles, principles should create laws. A law has become the minimum standard. For me, these ideals enshrined as principles through laws, means that I have a responsibility to understand these principles and do my part to uphold them for myself, and further, I have a responsibility to both educate and contribute to holding accountable others at large who may seek opportunity, perhaps unknowingly, to breach them. For me, this means:

“The world in which an act or deed actually proceeds, in which it is actually accomplished, is a unitary and unique world . . . The unitary uniqueness of this world ... is guaranteed for actuality by the acknowledgment of my unique participation in that world, by my non-alibi in it. . . This world is given to me, from my unique place in Being, as a world that is concrete and unique. For my participative, act-performing consciousness, this world, as an architectonic whole, is arranged around me as around that sole center from which my deed issues or comes forth: I come upon this world, inasmuch as I come forth or issue from within myself in my performed act or deed of seeing, of thinking, of practical doing.”⁶¹

⁶⁰ Un.org. (n.d.). *Human Rights*. [online] Available at: <http://www.un.org/en/sections/issues-depth/human-rights/> [Accessed 19 Oct. 2018].

⁶¹ Bakhtin, M. (1993) loc. 148. *Toward a Philosophy of the Act*. (Kindle Version) Austin: University of Texas Press.

Usefulness as an Ethical Principle of Research

I am committed to doing research that will be useful in the world and for it to be useful it needs to be contextualized in existing knowledge. This is an ethical dimension of research as the researcher needs to be accountable to the participants and the principles of engagement of others in a research undertaking. The researcher also needs to be accountable for research that others may act upon, therefore it has to meet the criteria of reliability. These ideas had considerable influence on my choice of participants and the focus of my research. My literature search, as will be seen, reviewed many narratives and critical and informed commentary from survivors. At first, I thought I needed to do research among survivors to firstly, understand their perspectives and secondly, to see what I could do to bridge a gap between advocacy and funded support. I know how to fund raise and saw that this might be the usefulness of my research to professional practice, at least initially. However, as I became immersed in readings of statutes, human rights, legislation, declarations, feminism and FGM narratives, the voice I could not hear so well was the voice of those who are on the front line of safeguarding, treatment and support of victims and survivors, those whose responsibility is to effectuate the ultimate purpose of legislation. I was curious to understand more about what obstacles they were encountering as they seemed to be similar to or the same obstacles faced by organizations working with any form of child abuse; obstacles not just to do with funding but with legislation, law enforcement, sanctions, rights of the child, rights of parents and sensitivities relating to cultural beliefs and practices. All cultures, including American culture, can be deaf to the daily abuse and neglect of children which again can always be explained but never justified. Translating the language of business expectations and regulations into effective operational language and practice is one of the key requirements of an effective professional in the world of change-agency and health care policy.

I was also aware that I myself as a researcher may not be adequately prepared to hear the narratives of FGM survivors as I had never worked closely with survivors of any form of abuse. I reflected on this and realized that it would be unethical to expose the survivors to re-traumatization through my enquiry and vicariously traumatizing myself. I was not an expert in practice and I have come to respect those who are, the front-line practitioners: midwives, health professionals, survivors who are health professionals, legislators/lawyers, physicians etc. I also wanted to seek the views of such practitioners who were in a system considered to be in a more advanced position than the U.S. in terms of acknowledging and tackling FGM and the complexities of its treatment and prevention in law, practice and safeguarding to see if there was anything that could be learned. A literature sweep of European countries identified the United Kingdom.

This research route with experienced practitioners was to take me as a stranger but not a stranger into the world of FGM. For them and the people they work with I want this research to be useful in a way that is defined by what they shared with me and not how I thought they should be

helped. In respect of this perspective and of their voices, I have brought together a knowledge landscape which also contains the voices of participants as living and working knowledge sources.

“To me, narrative is not the same as (living) story. A “narrative” is something that is narrated in retrospective sense making (backward-looking) ... Living story is an account of incidents or events and relationships to people in other living stories, all unfolding in-the-moment of Beingness (Bakhtin 1990, 1993)... Antenarrative can be a prospective sensemaking (looking-forward) to transform the future with storytelling by projecting the past lines into the future.”⁶²

Ricoeur (1990), according to Fina and Georgiakopoulou (2012), “connected the narrative mode to a philosophical reflection of time and memory in human life... At the same time, the narrative mode imposes order on heterogeneity of experience of experience and therefore does not merely reflect it, but constructs it.”⁶³ Stories are important for the maintaining of the cultural practices and therefore cultural identity, a recognition of which I have witnessed in this research. The source of practices have long been forgotten but have been passed on through narrative as a mode of sense making of experiences which gives rationales for the continuing of the practices. I was drawn to Boje’s ideas of the antenarrative because it offers some articulation of how “narratives can be modes of futuring, of possibilities which to my mind escape the bonds of post figurativism”⁶⁴ in which what has gone before gives certainty to the future, that all will be the same and nothing will be out of place, no matter the cost.

To this point my knowledge landscape was finding out about legislation and human rights, finding out about myself and critically reflecting on my motivations through the stories I was told and the stories I had told myself and finding out from others how to make sense of and articulate my experiences in the world so that the gaze I brought to this work would be as transparent as possible. The following chapters on research design, implementation and findings include additions to the knowledge landscape which I accessed during and after I met the participants and listened to their experiences, to better contextualize and understand what they shared with me: their motivations, their challenges, their confusions, their frustration and their hopes for the future.

⁶² Boje, D. (2012) p. 2-3. *What is Antenarrative*. [ebook] Available at: https://business.nmsu.edu/~dboje/papers/what_is_antenarrative.htm [Accessed 25 Oct. 2018].

⁶³ De Fina, A. and Georgiakopoulou, A. (2012) p.17. *Analyzing Narrative*. Cambridge: Cambridge University Press.

⁶⁴ Maguire, K. (2015) p.p. 22 - 23. *Margaret Mead: Contributions to Contemporary Education*. New York, London: Springer Briefs.

In the next chapter, Chapter 3, I present the research design and details and Stage 1 of the analysis of data, that is the thematic groupings. In Chapter 4, I present the analysis of data, and Chapter 5, I present an integrated knowledge landscape, Stage 2 of the analysis, as a means to contextualize and understand the results of the thematic analysis through which I can theorize the phenomenon thereby also contributing to theoretical knowledge as well as practice.

3. Research Design and Research Details

Working Definition of FGM

Female genital mutilation (FGM) comprises all procedures that involve the partial or total removal of external genitalia or other injury to the female genital organs for non-medical reasons. The procedure has no known health benefits. Moreover, the removal of or damage to healthy genital tissue interferes with the natural functioning of the body and may cause several immediate and long-term health consequences. Girls and women who have undergone FGM are therefore at risk of suffering from its complications throughout their lives. In addition, FGM violates a series of well-established human rights principles, including the principles of equality and non-discrimination on the basis of sex, the right to life when the procedure results in death, and the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, as well as the rights of the child.⁶⁵

“UNICEF reports that female genital mutilation/cutting (FGM/C) is a human rights issue that affects girls and women worldwide and that while the exact number of girls and women who have undergone FGM/C remains unknown, at least 200 million girls and women in 30 countries have been subjected to the practice.”⁶⁶

Rationale for the Research Design

Key Influences: facts, phenomenology, multiple voices, the marginalized, usefulness

From the beginning not only did I explore legislation and principles and literature that would help to understand and make meaning for myself, I also immersed myself in literature of survivors of FGM and their accounts of the experiences to better accustom myself to this area of trauma and to sensitize myself for what I may encounter in participants because it was likely that some would be survivors as well as clinicians or social workers. It was also new for me to expose myself so deeply to women of other cultures, to those who had been born in the United States and those who had immigrated to the United States. I did not have to seek “an internal connection” to what I wished to understand.⁶⁷ I had a felt and immediate affinity which transcends cultural and ethnic boundaries to the pain and confusion of what a child feels, prone and vulnerable to an adult from whom one expects safety and love. What was challenging to me as a female was the body location of the abuse, ritualization as something good and that the

⁶⁵ Stein, K. and Chou, D. (2016) *WHO Guidelines on the Management of Health Complications from Female Genital Mutilation*, p. viii, *Executive Summary*, Geneva: WHO Library Cataloguing-In-Publication Data
http://apps.who.int/iris/bitstream/handle/10665/206437/9789241549646_eng.pdf;jsessionid=2534FD0CD67959A5A81073138C9C8088?sequence=1

⁶⁶ UNICEF, *UNICEF Data Work on FGM/C*
https://www.unicef.org/media/files/FGMC_2016_brochure_final_UNICEF_SPREAD.pdf

⁶⁷ Bruns, G. (1992) p. 252. *Hermeneutics Ancient & Modern*. New Haven: Yale University Press.

cutters on the whole were female, it was considered female business. These accounts were stories but in the telling of them and in the linking together of them they became a narrative of cultural disabling, the price for not being ‘cast out’ and shamed; for not being alienated.

I did not want to engage participants with my agenda and for my convenience. I needed an approach to the research that would provide the conditions of safety and listening. I know what it is like not to be listened to whether as a child by adults or an adult required to fill in forms or respond to surveys with set questions. I was an outsider who could relate to the experiences of abuse in childhood through being a human being. I was not an insider who worked with or was part of the communities who have such practices. The approach which most resonated with my intentions and my positionality was ethnography. It is a non-judgmental and non-interventionist approach. It seeks to explore the understanding that a member of a culture has of their own practices and artefacts. I found that conceptualizing myself as the naïve outsider, an anthropologist, opened up the possibilities for understanding and would create the conditions for the level of engagement I was seeking.

“Anthropology combines an ethnographic study of particular people in certain places with a theorizing about mankind, including human beings as a cultural species.... Anthropology is a way of embodied being- in- the- world. It demands a processual presence in a field of lived life.”⁶⁸

Hasse (2015) talks about the ethnographer as the apparatus of research, the participant observer. “As a participant observer the ethnographer, from whatever discipline, invests an embodied being in places inhabited by humans they would not otherwise engage with.”⁶⁹

This is how I wanted to be with the participants and their practice cultures. Ethnographers elicit stories which are sense making. I wanted to explore how a range of professional practitioners involved in FGM prevention, from legislators to midwives, make sense of what they experience in those roles and surface how they came to be involved; in Boje’s terms, exploring the ‘antenarrative.’

There are many perspectives on narrative methods, for example distinguishing narrative from discourse, the form and purpose of narrative, its differentiation from story/storytelling and from living story. Emphasis is given to the analysis of stories or narratives and less to the eliciting of stories and the formulation of narratives. I found that conceptualizing myself as the naïve outsider, an anthropologist, seemed the most helpful approach.

⁶⁸ Hasse, C. (2015) p. 5. *An Anthropology of Learning: On Nested Frictions in Cultural Ecologies*. New York, London: Springer Dordrecht Heidelberg.

⁶⁹ Ibid, p.5

In short ethnography gave me a way to enquire rather than probe through a lens which seeks to understand the understanding a member of the society or community has of their own environment and practices and initially not for the researcher to understand through a lens edited by their own culture. In the case of FGM in the United States, the communities had the added layer of being nested in a larger more complex environment which they found alienating and alien. Additionally, as will be seen in Findings, Chapter 6, I did not set out to use a Grounded Theory approach, my constant immersion in the data led me to seek more and more clarification in the literature during the process of the fieldwork thereby supporting me to theorize about the practice of FGM and how we contextualize it and work towards its prevention. I would concur with the identifying of two clear principles by Corbin and Strauss (1990):⁷⁰

“The first principle pertains to change. Since phenomena are not conceived of as static but as continually changing in response to prevailing conditions, an important component of the method is to build change, through process into the method.”⁷¹

Through the narrative approach, in which the participant could speak freely about themselves, their context and their approach to their work and why they hold particular views, as the researcher I anticipated I would become increasingly sensitive to the importance of motivation, self-agency and context for each participant and that my responsibility as a researcher would be to use these to increase my own understanding and put it to good use.. My research encounters, I hoped, would lead me to understand my own culture better, a culture in which these communities were situated. This, I hoped, would have the effect of making me more attuned to the sector and thereby recognizing that even in the initial asking of a question such as ‘how did you come to be involved’ would elicit a renewed or refreshed questioning of the progress or not of that agency in each participant and of progress in the prevention of the practice. I did a lot of hoping.

“The second and related principle pertains to a clear stand on the issue of “determinism.” Strict determinism is rejected as is nondeterminism. Rather, actors are seen as having, though not always utilizing, the means of controlling their destinies by their responses to the conditions. They are able to make choices according to perceived options.”⁷²

I was not worried about the amount of data that would be generated from this sense, meaning making, storytelling approach. I did not consider my research to be worthwhile if I were to boundary expression for my convenience. Immersion in the data would help me to remain

⁷⁰ Corbin, J. and Strauss, A. (1990). Grounded Theory Research: Procedures, Canons and Evaluative Criteria. *Zeitschrift für Soziologie*, Jg 19(Heft 6, Dezember 1990), pp.S 418-427 Copyright: F. Enke Verlag Stuttgart.

⁷¹ Ibid., p. 419.

⁷² Ibid.

“invested in that embodied being,”⁷³ in the place I had visited after I had physically left but which I knew I would carry with me and be shaped by the experience.

I looked for the most appropriate method of analysis for stories. I was exploring a cultural phenomenon, a phenomenon being something we do not know enough about but it can be researched in order to penetrate its source, its occurrence and continued existence. ‘Ignorance’ as in ‘out of awareness’ thrives when phenomena remain unexplored as if they are entities that belong somewhere else and are not our concern. Often this response is because they do not fit into a ‘rational’ view of the world. As my challenge was to bring FGM into awareness through research and inform the public, I found that Smith’s Interpretative Phenomenological Analysis (IPA)⁷⁴ offers an organizing frame for narrative data and supports the perspective of the researcher to have a role in the interpretation of the data.

In terms of further organizing and interpreting the data, I found Boje’s work in organizations to be most appropriate as he explores story telling in the context of professional practices in professional settings to bring about change in cultures.⁷⁵ FGM is a practice which comes into contact with and is influenced by many ‘cultures’ from the host culture, to the cultures of health and law making. If I wanted to reach those audiences I would need to think of presenting the data in different ways.

My journey into philosophy in search of an articulation, a translation of myself into the world, took me to Kant, Hegel, Heidegger and Ricoeur and enhanced my critical reflection bringing into awareness and articulating my ontological shaping which now informs me not only as a person but as a professional and a researcher. I was interested in seeing how the research activity itself would shape both me and the participants further. Heidegger⁷⁶ and Ricoeur⁷⁷ have written about narrative identity and although this was not my focus for the research, I was to find Ricoeur’s⁷⁸ and Bakhtin’s⁷⁹ words on polyvocality and self a revelation. By conceptualizing my participants and the literature as different voices coming together, then my role was to orchestrate the voices into a ‘sonorous chorus’ in the spirit of Ricoeur’s polyvocality and the impact of that on narrative identity which I go back to in my Reflections, Chapter 7, at the end of the work.

⁷³ Hasse, C. (2015) p. 5. *An Anthropology of Learning: On Nested Frictions in Cultural Ecologies*. New York, London: Springer Dordrecht Heidelberg.

⁷⁴ Smith, J. (1996). Beyond the Divide Between Cognition and Discourse: Using Interpretative Phenomenological Analysis in Health Psychology. *Psychology and Health*, (11), pp.261-271.

⁷⁵ Boje, D. (2011). *Storytelling and the Future of Organizations*. New York: Routledge.

⁷⁶ Heidegger, M. (2001). *Being and Time (Kindle version based on the print edition)*. Oxford: Blackwell.

⁷⁷ Ricoeur, P., Blamey, K. and Pellauer, D. (1990). *Time and Narrative, Volume 3 (e-book)*. Chicago: University of Chicago Press.

⁷⁸ Ricoeur, P. (2016). *Philosophical Anthropology*: Polity Press.

⁷⁹ Bakhtin, M. (1993). *Toward a Philosophy of the Act*. (Kindle Version) Austin: University of Texas Press.

I believe that change is complex but obstacles to change, to hierarchies of power can be challenged with the resources of information, knowledge, collaboration, policies and access to attain levels of funding. I was aware that it is naïve to expect that a 120-pound female can move a mountain by just willing it but not naïve to expect that she will find a way through by identifying and gathering other resources to help her. I wanted this work to be another resource that contributes to moving a mountain out of the way.

In engaging participants I was aware of making a promise to do something about something and wanted to keep that promise but Ricoeur offers a cautionary note about promises.

“Promising is possible on this basis. Human subjects commit themselves by their word and say they will do tomorrow what they say today. The promise limits the unpredictability of the future, at the risk of betrayal. The subject must keep his or her promise – or break it. He or she thereby engages the promise of the promise, that of keeping one’s word, of being faithful.”⁸⁰

I will keep my promise to myself, to my participants to do something useful with what I find out using my professional position to influence change. At this stage it was indeed “the promise of the promise”.

Research Details

As the topic of FGM is a stigmatized one, the professionals who help both the children, and the women of the communities who practice it, could be considered vulnerable as a result of two perceived concerns: the first being that the participant (or participant’s family member) may be one who has been subjected to FGM or another form of gender-based violence; the second being that they interact with a culture where the proponents, perpetrators and even survivors of the practice may display suppressive behavior to the participants if their participation becomes known. To address the first, conversations were only conducted with participants who are professionals who have already made known their opposed position on FGM; and made known their professional and sometimes personal effort to assist their own and other professions which provide support to end the practice of FGM in the practicing communities. To address the second, the anonymity and privacy of those who participated in the research was protected, and remains so, by the codification of their personal and professional profile, including the date of the conversation to preclude a link between dates, data points, locations and individuals. The codification formula is my creation and only known to me, the hand-written recording of such is kept in a locked safe in my home. The audio recordings were taken on my password protected

⁸⁰ Ricoeur, P., Michel, J., Porée, J. and Pellauer, D. (2016) p. 292. *Philosophical Anthropology*. 3rd ed. Cambridge: Polity Press.

cell phone and then erased after I transferred them to a private, password secured audio application on my personal computer. I then transcribed the audio recorded narratives to text myself. The conversations produced 13 individual and 2 group (3 individuals in each) narratives comprising 55,954 words of participants experiences. The anonymization is to protect the identity of the research participants. This is particularly important when sensitive information may be disclosed which may cause a participant distress should other parties learn such information and if such disclosure reveals in any way the identity of the participant. Other than the country identifier, no other location or identifier is provided to further protect participants from being identified through professional practice locations. Some background characteristics such as profession, gender, timeframes, political, cultural or religious beliefs, etc. provided by each participant provide context for deeper and fuller understanding of the value of the narratives of professionals, the developed perspectives of each and how they individually and collectively inform and impact the continuum of research, from choices of literature review to interpretation and translation through to findings and recommendations. Who the participants are in their professional roles and how they see themselves in relationship to both the practice of FGM and the law, informed the whole of this research.

Recruitment of Participants

The aim of the research is to explore FGM as a bounded case study through participants who have professional roles in practice that include responsibilities of influence on and/or enforcement of legal regulations and policies that are purported to safeguard children; safeguard girls from the practice of FGM; and more generally, children's rights and human rights. At this time, the United Kingdom is more advanced than the United States in the enactment and enforcement of child safeguarding legislation and policy, including that which relates to the practice of FGM. It is my belief that professionals in the United Kingdom who have been part of, or witnesses to, or beneficiaries of new policies and legislation which have brought about better safeguarding practices and reporting structures with regard to FGM, have stories to share which can support parallel professionals in the United States who are interested in moving forward but are unable to for a number of complex reasons. I sought stories of advocacy, challenges experienced, cultural tensions and personal values, possibilities for the future; gaps between well intentioned policies and realities of practices at the front line and more; stories that both highlight the complexities of the professional conditions in relation to FGM and indeed to child safeguarding in general and the dilemmas faced by professionals. I collected stories from professionals in the United Kingdom and the United States to produce data to identify where the gaps might be. My advising professor and I determined that eight professionals from the United Kingdom and 8 professionals from the United States would provide adequate data for research and analysis consideration. I would need to have conversations with clinicians, social workers, legal and advocacy advisors whose selection and participation was qualified by their exposure to this population through their professional roles (non-profit advocacy organizations and non-

profit higher education organizations). The physicians, midwives and social workers were very important as they come face-to-face with the women who are survivors of the practice and therefore have the most experience and knowledge of the challenges practitioners face in the gap between well intentioned policies and realities of practices at the front line; experiences that are the product of the evolution of understanding and meaning making of the realities of those who practice, witness and live it.

I drafted an Invitation to Participate and Informed Consent introducing myself; the aim of the research; why they had been chosen; the process if they agreed to participate; the benefits of participation; the strict confidential nature of participation; what will happen with the results of the research; that participation is voluntary, and an informed consent section noting the participant's name and consent. Dr. Kate Maguire, my advising professor, is a Middle East anthropologist and trauma psychotherapist with many contacts in relevant professional communities and referred me to contacts at established U.K. organizations whom I emailed and called to introduce myself and the purpose and aim of my research. Also, Su Everett, a Senior Lecturer at Middlesex University and an expert on FGM in the U.K., who had recently participated in a major piece of policy research for the U.K. government, introduced me via email to midwives in the U.K. who she believed may show interest in participating. I received an immediate response from all. I also received referrals from those that accepted, and I quickly received consent from the eight that I needed for the U.K. For the United States, Dr. Annetine Gelijns, Chair, Department of Population, Science and Policy, and Angela Diaz, M.D., Director of Mount Sinai Adolescent Health, both of whom I have worked with at the Icahn School of Medicine at Mount Sinai for more than 15 years, introduced me via email to professionals in the United States that they knew had some experience with the communities that practice FGM. I emailed these initial referrals who declined participation, however, they referred me to others, who referred me to others and over a couple of months I eventually received consent from eleven professionals in the United States. Gaining acceptance of participation in the United States was far more difficult than the United Kingdom. Most times my emails received very cautious responses from potential U.S. participants, and some never responded. However, one participant who I cold-called at a non-profit foundation, returned my call immediately and not only agreed to participate right then, but also introduced me to others via emails from which I also received quick consent. I ended up with 11 participants for the U.S. because I sent out so many email invitations that when I finally received responses I did not want to turn anyone away. I valued all of the acceptances I received; each was a gift. As I began the interview process each subsequent conversation with the various professions and roles of the participants increased my ability to receive and process what was being told to me, the knowledge of each experience shared and their way of being in the sharing of it informed the evolution of my way of being with each in subsequent conversations. I evolved with each encounter from a professional who approached issues as an expert with the experience to execute anything within my profession's purview to a researcher asking other experts for knowledge to inform my own development and the

development of my research. I thought I would feel vulnerable in this role and process. I did not. I thought I would feel like an outsider. I did not. Through my many roles and years of change-agency in the health care industry, I had learned the language of health care; I had learned the language of law; and I had learned the language of policy and regulation. Through the years of my childhood, I had learned the language of violence and abuse and I had learned the language of pain and silence. I was not an insider to the world of FGM or the advocacy for its prevention, but I was not an outsider to the many professional languages that were being spoken by the advocates nor was I an outsider to the world of survivors of violence and abuse.

The conversations were conducted from January to April 2018. Eight interviews for the United Kingdom and 11 for the United States. Following are three tables which codify the participants; present the technical details of the interviews; and the primary professional roles and articulated motivation of each to be in their role.

Table 1 provides:

- The participants coded and displayed in chronological order of conversation.
- The country of research. (United Kingdom or United States)
- The gender of the participant.
- The role or multiple roles of each participant either currently or historically.
- Whether the interview was conducted with an individual participant or group of participants.
- Whether the interview was audio recorded or hand-written.
- Whether the interview was conducted in-person or via electronic means such as phone or Skype.

Table 2(a) provides the United Kingdom participants:

- Codified identifier
- Primary professional role for analysis purposes
- Country of birth or ethnicity if known or revealed.
- Extracts of each participant's narrative articulating the motivation of each to be in their role.

Table 2(b) provides the United States participants:

- Codified identifier
- Primary professional role for analysis purposes
- Country of birth or ethnicity if known or revealed.
- Extracts of each participant's narrative articulating the motivation of each to be in their role.

Table 1: Participants in chronological order of conversations.

Participants in Chronological Order of Conversations									
Participant Code	Country	Gender	Professional Role	Individual Narrative	Group Narrative	Audio Recorded	Handwritten Notes	In-Person	Via Phone/Skype
1	UK	Female	Lawyer, Advisor on policies and legislation	X			X	X	
002, 003, 004	UK	Females	All three: Midwife, Educator, Advocate		X	X		X	
005	US	Females	Researcher, Philosopher, Author	X			X	X	
006	UK	Female	Nurse and Midwife, Educator	X		X			X
007	US	Female	Physician, Educator, Researcher, Advocate	X		X		X	
008	UK	Female	Researcher, Educator	X		X			X
009	US	Male	Lawyer, Educator, Researcher	X		X		X	
010	UK	Female	Social Worker, Educator, Advocate	X		X			X
011	US	Female	Researcher, Educator	X		X			X
012	US	Female	Social Worker, Educator, Advocate, *Survivor	X		X			X
013	UK	Female	Social Worker, Educator, Advocate	X		X		X	
014, 015, 016	US	Females	014 and 015 = Social Worker, Educator, Advocate 016 = Business Executive/non-profit		X	X		X	
017	US	Female	Business Executive/non-profit, Advocate	X		X			X
018	US	Female	Social Worker, Advocate, Business Executive/non-profit **Survivor	X		X			X
019	US	Female	Nurse and Midwife Educator	X		X			X
19 Participants	8 UK 11 US	18 Females 1 Male		13 Individual	2 Groups of 3 Individuals	17 Audio Recorded	2 Handwritten	11 individuals in-person	8 individuals via phone/Skype

* Survivor of gender-based violence other than FGM

** Survivor of FGM

Table 2(a): United Kingdom Participants. Primary professional role, gender, ethnicity (if known) and motivation to be in their roles.

United Kingdom Participants				
Participant	Primary Prof Role	Gender	Country of Birth/Ethnicity	Motivation for professional efforts to address the harmful traditional practice of FGM and other forms of violence and human rights abuse.
001	Lawyer	F	Scotland	I noticed the law regularly failed women. An OB/GYN introduced me to the practice of FGM. I became incensed by the brutality of the act and decided to work towards a law that prohibited it.
002	Midwife	F	Nigeria	I moved to the UK in 1984-85. At that time about 40% of girls were FGM'd in Nigeria. It is child abuse. I had to do something about it.
003	Midwife	F	Guyana	FGM is not known to be practiced in Guyana. As a black midwife in the UK, you are going to see it. I was told when I started my FGM work ' <i>what does it have to do with you. Just leave them alone, it's their culture.</i> ' I will not leave them alone. That's part of the problem, people look away.
004	Midwife Educator	F	British w/American parent	Black women in East London where I worked as a Midwife said ' <i>Come help us. Do not be a liberal now. We do not need liberals. We need strong professionals. You must be our ally. These little girls are your clients. We need everyone's help.</i> '
006	Nurse Midwife Educator	F	Ireland	As a midwife educator, it is my responsibility to know the law and create recommendations for guidelines for the mandatory reporting requirements.
008	Researcher	F	British	Years ago, I did a masters degree in research methods and criminology and I had been reading around the sexual violence area. I worked many years in privation services before I became an academic. The work on sexual abuse really interested me from the offender and the victim perspective and you start to work with a whole group of practitioners who are really committed in this area of work and I became drawn into it. I'd like to say it chose me rather than I chose it.
010	Social Worker	F	Kenya	Being from Kenya I am a part of a community that still practices FGM. My sister has been through it, I have not. My father saved me from it. He had not been in the country when my grandmother subjected my sister to it. When I moved to the UK, working on one of the modules for my studies I decided to Google FGM and as I was reading about human rights I saw that FGM was an issue in the UK and I thought 'whaaaaaat'? So, I became very interested in researching and advocating.
013	Social Worker	F	Nigeria	In Nigeria where I am from, my tribe practices mostly level two FGM. My father did not want me to experience it so I did not. My father and mother have always been very vocal about my rights, their children's rights, and neither me nor my sister had FGM. When I came to the UK, I became interested in helping others understand children's and women's rights. I went to work for Forward in the UK.

Table 2(b): United States Participants. Primary professional role, gender, ethnicity (if known) and motivation to be in their roles.

United States Participants				
Participant	Primary Prof Role	Gender	Country of Birth/Ethnicity	Motivation for professional efforts to address the harmful traditional practice of FGM and other forms of violence and human rights abuse.
005	Researcher	F	American	I do not have direct experience with FGC in the Western sense. I have some experience with it as encountered in Africa during research I conducted there. In a Western sense, FGC, along with sex trafficking seems to be more a conversation around public policy vs criminal law; one where the victims are ignored.
007	Physician	F	American/Jewish	I got involved in FGM by accident. I was a resident at a hospital that had a lot of Somali refugees. This was in the 90's. The first time I came across it in a physical exam, I thought <i>what's that?</i> I had to control my face. I had to look it up. I speak French so many West African patients were turfed to me. The study by WHO wasn't put out until 2006 so we were making it up as we went; learning how to talk to people. Everything was on the fly. Nobody thought about the law.
009	Lawyer	M	American	A professor in law school encouraged me to go to Europe for a semester. I wound up in Geneva working with a group writing a definitive look at Idi Amin in Uganda and interviewed probably 100 survivors, family members of people who had been killed. It had a profound impact on me. The lack of attention to this massive violation of human rights. I then practiced law representing asylum applicants and was exposed to many human rights violations. It was all a wake up call. I thought, I can work on these global issues nobody's paying attention to.
011	Researcher	F	American	I was at grad school and was working at a non-profit that was doing human trafficking work and came across the practice of FGM in a book I was reading, written by a campaigner opposing the practice and I was obviously horrified and inspired. I actively started working with someone committed to eliminating the practice. It was an obvious transition from human trafficking which was my big focus in grad school.
012	Social Worker	F	American	I was assaulted in college by someone I knew. I was a psychology and social work major and I started working with a rape crisis program as an educator part time. I had a roommate who had also experienced a violent assault and even though I had been through an assault myself, I didn't know what to say to her. I didn't know how to best help her and I wanted to do better than that. So I went through the training, became an advocate and started working for the program.
014	Social Worker	F	American	About 20 years ago, I was sent to Ethiopia and among other things I went to a hospital for fistulas and started to understand that most of the cause's for the fistulas began with the practice of FGM on children; began with no real protection of children's rights.
015	Social Worker	F	American	***Participant did not reveal when or how she became involved***
016	Business Executive non-profit	F	American	***This participant is new to leadership of the organization but has been leading non-profit organizations and their funding programs for over a decade. Did not reveal how she became involved.***
017	Business Executive non-profit	F	American	I was in finance when the subprime crisis happened and I took some time off. I started doing personal consulting for the founder of a women's rights foundation who also needed help setting up the organization's structure, so I transitioned to working directly for the foundation. I kind of fell into it but many years before in high school debate, we were assigned immigration and whether or not the US should change the laws. My debate coach helped me understand how closing the borders would affect many women being oppressed around the world. We discussed FGM as a breach of the human rights of both children and women and it became a part of my debate platform.
018	Social Worker	F	American w/parents from India	I was born in the US but my parents are from India. FGM was something that happened to me when I was 7 years old. At that time, there was no federal law in place. In high school, I started learning about FGM, and I usually refer to it as FGC but again, at the time I learned FGM. I learned that it happened in Africa and I remember reading stories about it in addition to my friends talking about it. What I learned wasn't exactly what happened to me; there are many different narratives. I got my masters in social work and learned I had an affinity for working with gender violence issues. I started to understand that FGC is a form of violence that was a learned behavior.
019	Nurse Midwife Educator	F	American	My interest in FGC came out of my time in the peace corp, I lived in Mali which has one of the highest FGC rates in the world. My interest continued when I came back to the US and became a health care provider myself. It was evident on a day to day basis, the mistreatment that these women received.

The participant's motivations reveal summaries of the antenarrative, the back story, acted out in the present and not yet influencing the future at a community and societal level. All participants had either direct experience of FGM or proximal experience through roles which brought them in touch with the issue or through professional contacts. As a researcher it was important to me to start off with an expert in law to challenge my own perception based on my professional experience in healthcare, that the role of legislation and the presence and application of the law should have influenced a decrease in cases in the United States rather than an increase.

The following Chapter 4 and Chapter 5 present two stages of the analysis of the data that was gathered.

4. Analysis of Data

Analysis Stage 1: Thematic organizing and coding of the narrative data

As the data was being gathered I recognized that its content related to both processes and to emotions such as frustration, anger or a bracketing off of emotions for various reasons. There are many published accounts of this traumatic practice by those who have experienced it. However the aim of this research was about addressing knowledge gaps through stories of practitioners working to address the complex issues which surround this form of child abuse. Thinking of the skills of persuasion which include knowing your audience and involving them through firstly what they already know, I was conscious that for budget holders, legislators, policy makers and administrators to be persuaded they would need the data presented graphically as this is a common artefact in their work cultures. This was done through color coding and presented in graphic and table form (Stage 1). To capture the power of the participants contributions as narratives which are not separated from the mainstream, that is as ‘something which happens over there,’ I decided that the most effective and respectful way of presenting and interpreting aspects of their stories, and lifting their knowledge out of the margins, was to set them in the bigger narratives of established principles and commentaries thereby this contextualization achieving two goals: firstly legitimacy of practitioner knowledge through voices and secondly drawing attention to the practice of all childhood abuse which recognizes no boundaries of status, wealth or culture (Stage 2, Chapter 5).

Stage 1: The data was analyzed using an adaptation of Smith’s Interpretative Phenomenological Analysis ⁸¹ as it values the researcher’s experience in interpreting the data. I believe the role of the researcher as interpreter is one that has to be accountable by embedding the interpretation in existing literature, in the voices of the participants and in the researcher’s critical engagement with their own professional and personal influences providing a level of transparency and trustworthiness (Analysis Stage 2).

“The aim of interpretative phenomenological analysis (IPA) is to explore in detail how participants are making sense of their personal and social world, and the main currency for an IPA study is the meanings particular experiences, events, states hold for participants. The approach is phenomenological in that it involves detailed examination of the participant’s lifeworld; it attempts to explore personal experience and is concerned with an individual’s personal perception or account of an object or event, as opposed to an attempt to produce an objective statement of the object or event itself. At the same

⁸¹ Smith, J. (1996). Beyond the Divide Between Cognition and Discourse: Using Interpretative Phenomenological Analysis in Health Psychology. *Psychology and Health*, (11), pp.261-271.

time, IPA also emphasizes that the research exercise is a dynamic process with an active role for the researcher in that process.”⁸²

I transcribed what amounted to more than 55,000 words of narrative to ensure that I could be totally immersed and conversant with all of the issues the participants raised.

Steps

- i. Transcription
- ii. Identifying main topics which emerged: law, community, religion, etc. in each transcript (see below)
- iii. Reading through each transcript for common themes, that is themes where there was over 70% (approx. 14 participants) consensus (see Tables 3, 3(a) and 3(b)). Table 4 shows consensus of the top four themes that emerged with subsequent Tables 4(a), 4(b), 4(c) and 4(d) presenting illustrative quotes for each from the narratives.

Thematic Analysis

I met with each person and asked a question. ‘How did you come to be involved in this issue of FGM and what are your experiences of that involvement?’ This set in motion a story as the participants began to explain and come up with examples, dilemmas, contradictions and frustrations often illustrating these with examples which were stories in themselves and which they carried within them. With each encounter I found myself becoming more aware of the issues and my probes, when I was asked what else I would like to know or when there was silence, became more finally attuned to the context of the participant.

They often seemed to be telling the story to themselves more than to me as if hearing themselves for the first time and, because of my own induction into ontology, I could see what had shaped them coming to the surface. It was as if they were making connections for themselves in front of me and yet at times as if I was not there; they had gone into their own thoughts and were thinking out loud.

These encounters produced a significant amount of data and it became necessary to organize them as I went along. I first color coded (highlighted) the main issues which emerged of importance/led by the participant and color coded the accompanying ‘felt’/‘charged’ issues, that is those in which emotion was expressed. I thematically color coded every participant, then compared and contrasted to distil a set of superordinate themes on which there was a consensus,

⁸² Smith, J. and Osborne, M. (2003) p. 53. Interpretative Phenomenological Analysis. In: J. Smith, ed., *Qualitative Psychology: A Practical Guide to Methods*. London: Sage, pp.53-80.

and then categorized the themes particular to context and to the primary professional roles of the participants as shown in Tables 2(a) and 2(b). In this way I was able to surface the possible gaps by professional role that were inhibiting solutions to problems and progress in public education and societal change to ensure the protection of young girls vulnerable to FGM practices. Following is a sample of the thematic color coding of one participant who was not audio recorded (pages 41-43). Some texts and phrases were interpreted to have multiple meanings therefore have multiple colored highlights applied to both background and font for consideration.

Color Code Key: Thematic Analysis of Narratives	
Yellow	law
Bright Green	medical professional experience; diagnoses.
Bright Blue	male position; male perspective; male related.
Red	religion; religious.
Olive Green	culture; community; beliefs other than religion.
Grey	recommendations.
Bright Pink	voice of the survivors as relayed by Participant.
Green-Blue	terminology used to identify the practice; issues of conflation and misunderstanding.
Burgundy	related to cultural relativism; racism.
Navy Blue	related to gaps in knowledge.
Orange	feelings.
Peach	the word feminism
	redacted text to safeguard identity

Example of Thematic Coding for Participant (001):

Hand written notes were taken as the participant did not look favorably upon tape recordings. The participant was generous with her time and made sure I had enough time to take notes and use her words as words she said were important to her. I have put those phrases/terms used in italics to convey something of the feelings and focus of the participant. In IPA terms one could say it was a kind of weighting not in terms of frequency but in terms of emotions in that some phrases were more charged than others.

The participant was born in the UK and began professional practice as a criminal lawyer.

Participant was a young **feminist**, coming into professional practice in the 1970's who noticed *that the law regularly failed women: violent crimes, rape and domestic injustices, such as in a divorce where women who bore children and maintained the home were judged to provide no financial contribution to the welfare of the family, therefore, earned little or no consideration for alimony or marital assets as a result. Also, acts of sexual violence were justified by the law and society as the women victims were cast as stereotypes (sluts, whores, loose) using myths of promiscuity as earning the offensive and violent behavior, in other words they were seen as having asked for it. There were few female lawyers and even fewer feminist lawyers. Most female lawyers at that time saw the law through men's*

eyes, those of the institutions that had created the lawyers and subsequently, the laws and justice system and therefore did not challenge the status quo.

In those days the term used was female circumcision and equated to male circumcision. Participant became familiar with the term through some exposure and was horrified by the thought of it but did not get involved right away.

Participant met a male Dr., OB/Gyn, who provided care at a women's clinic/hospital and he told her stories of providing care to many African women who presented for OB care and their vaginas had been torn and mutilated, sewn up and reduced to a very small hole, size of the circumference of a #2 pencil. (this pencil reference results from the participant making a gesture with her right hand with her thumb extended and her index finger, all knuckles of which were bent, with the tip tucked into the base of her thumb creating an enclosed opening of that of a very small circle).

The Female Genital Mutilation Act 2003 (the Act) was originally enacted in order to prevent female circumcision. It specifically outlaws a person who "excises, infibulates or otherwise mutilates the whole or any part of a girl's labia majora, labia minora or clitoris". At the time the Act was passed, Female Genital Cosmetic Surgery (FGCS) performed by certified plastic surgeons was relatively uncommon, and the general intention and presumption of the law was that prosecution should relate to the cultural forced practice of female circumcision on girls and women. However, what few surgeons realize, is that whether or not the patient is consenting to FGCS (without consent the surgical procedure itself would legally constitute criminal assault), the Act makes FGCS unlawful. There are two exceptions: where the procedure is necessary for the patient's mental health; and, when the patient is in any stage of labor or post-delivery for purposes connected with either.

Even though the law was intended for forced cultural FGM, in March 2014, the first prosecution case that was filed in the UK was towards a department of health medical professional. The participant directed me to the reference material, see link. <http://www.telegraph.co.uk/news/uknews/law-and-order/11390629/NHS-doctor-cleared-of-performing-FGM-amid-claims-he-was-used-as-a-scapegoat.html> The physician, an NHS doctor, was acquitted by a jury in less than 30 minutes of illegally stitching up a mother after she gave birth.

The participant got incensed by the brutality of the act and the lack of quality of health and life experienced by the victims; a lifetime of frequent infections, both gynecological and general health concerns, and painful sex," "even death, that are common to the girls and women that were forced to undergo FGM.

The participant referenced Waris Dirie, a Somali model and social activist who served as a UN Special Ambassador from 1997 to 2003. In 1997, at the height of her modeling career, Dirie spoke for the first time about FGM, and how she had undergone the practice as a child at the age of three. In that same year Dirie became a UN Ambassador for the

abolition of FGM. In 1998 Dirie authored an autobiography, *Desert Flower* which in 2009 became a feature-film.

The participant met another colleague in the course of her work. The participant and her colleague went to [REDACTED] Hospital where a physician showed them slides of women's vaginas post-FGM, *they were unrecognizable. Unfamiliar in every sense to their own bodies. The physician said that the mutilation had been performed in unsterile conditions, with shards of glass, knives, homemade cutlery and box-cutters. There were hundreds of slides and looking at them was awful. Somali and Kenyan populations, communities where the cultural practice was prevalent, were growing quickly in Britain and the participant felt compelled to get more involved.* The participant and her colleague traveled to African clinics in both Somalia and Kenya to learn more about the communities where FGM is practiced and also where funding has been made available to support medical services to the affected women to fix their vaginas. They also traveled with charities to Ethiopia to hear the stories of affected women to hear and to learn ways to help them effectively discourage FGM.

When speaking to young men in Ethiopia, the young men expressed knowledge of movies and porn, how the women's bodies looked and how sex appeared to be enjoyable to everyone. The young men contrasted this view to what they see at home and *how they hope that their lives will not be like that of their parents, that of their elders. They want to be free to enjoy sex with a woman that also enjoys sex.*

The participant spoke of the hypersexualization and objectivization of girls and women in western culture; the sexuality that is inappropriately directed at and imposed on girls through films, all forms of media, marketing, products, etc., that encourages girls to act in adult sexually explicit ways *and how the result of this objectification of girls in western culture is used to promote and safeguard FGM by the cultures that practice it.*

In May 2017, Rabbi Philip Lefkowitz of Chicago, in defense of male circumcision stated that he was subjected to involuntary circumcision by his parents during his eighth day of life, a **religious** right based upon a commandment in the Torah. Male circumcision is also practiced in the Muslim faith. Lefkowitz went on to say that given the **Free Exercise Clause** commits government itself to religious tolerance, and that all officials must pause to **remember their own duty to the Constitution and to the rights is secures.** *The circumcision of boys and girls is a religious right, therefore not the business of legislation. This is seen as Lefkovitz protecting male circumcision for the Jewish faith by sacrificing little girls to the horror of FGM.*

The participant also referenced a Harvard civil liberties lawyer, Alan Dershowitz, *who is advising a Muslim group accused of promoting FGM to instead adopt a variation of the Jewish circumcision ritual. Dershowitz argues that certain forms of FGM are a religious right protected under the US Constitution.*

Each encounter was coded in this way and examined for consensus producing the superordinate themes and the subordinate themes.

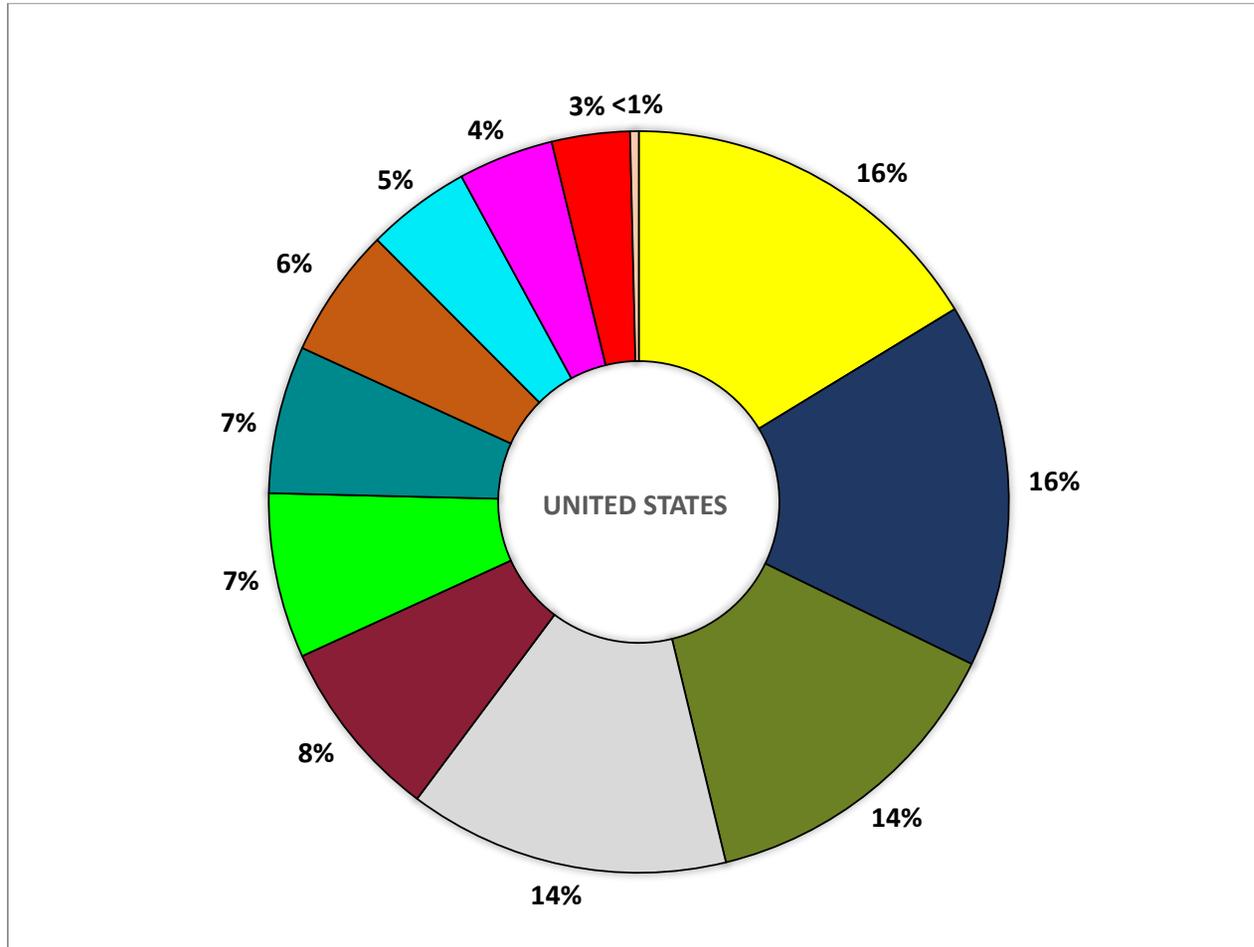
Table 3: Consensus themes

The following tables show the color-coded themes (main issues) that emerged by participant.

Table 3: Color coded consensus themes by participants, United States and United Kingdom:

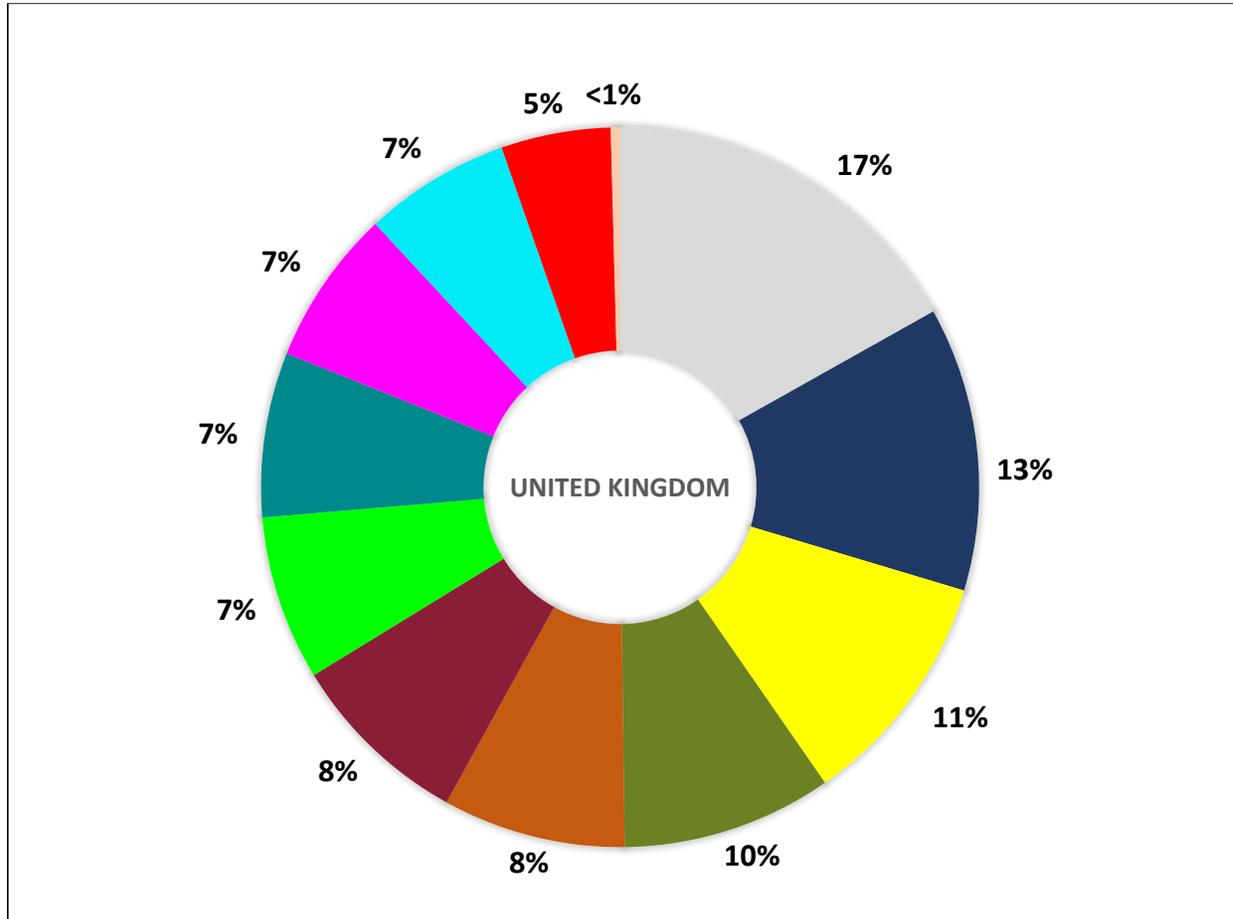
Color Code Key	Thematic Analysis	P(###)	U.S. Participants											U.K. Participants								Total U.S. & U.K.		
			005	007	009	011	012	014	015	016	017	018	019	Total U.S.	001	002	003	004	006	008	010		013	Total U.K.
	recommendations		3	4	4	3	2	3	3	1	6	4	4	37	4	7	7	5	8	3	5	2	41	78
	related to gaps in knowledge		2	5	1	3	5	3	3	3	5	8	4	42	3	6	5	3	6	1	5	2	31	73
	law		3	5	4	5	4	6	2	1	5	5	3	43	5	5	4	2	3	2	4	1	26	69
	culture; community; beliefs other than religion		2	5	2	2	3	3	1	2	6	8	3	37	5	5	4		2	2	3	2	23	60
	related to cultural relativism; racism		2	3	2	1	2	2	1	1	1	4	2	21	1	3	3	3	3	1	3	3	20	41
	medical professional experience; diagnoses		1	4		1	1	1	1	1	1	3	5	19	2	2	3	5	3	1		2	18	37
	terminology used to identify the practice; issues of conflation and misunderstanding		2	3	1	1	1	1		1	3	2	2	17	3	2	3	3	2		3	2	18	35
	feelings		1	1	1	1	1	1	1	1	1	3	3	15	3	3	4	2	2	3	2	1	20	35
	male position; male perspective; male related		1	1	3	2	1				2	2		12	3	1	1	3	3	1	4		16	28
	voice of the survivors as relayed by Participant		1	1			1	1	1		2	3	1	11	4	4	2	2	1	1	2	1	17	28
	religion; religious		1	1	1	1	1	1			1	1	1	9	3	2	2	2			2	1	12	21
	the word feminism		1											1	1								1	2

Table 3(a): Pie chart of color coded consensus themes, United States participants:



Key	
Color Code	Thematic Analysis
Grey	recommendations
Dark Blue	related to gaps in knowledge
Yellow	law
Olive Green	culture; community; beliefs other than religion
Maroon	related to cultural relativism; racism
Bright Green	medical professional experience; diagnoses
Teal	terminology used to identify the practice; issues of conflation and misunderstanding
Brown	feelings
Cyan	male position; male perspective; male related
Magenta	voice of the survivors as relayed by Participant
Red	religion; religious
Orange	the word feminism

Table 3(b): Pie chart of color coded consensus themes, United Kingdom participants:



Key	
Color Code	Thematic Analysis
Grey	recommendations
Dark Blue	related to gaps in knowledge
Yellow	law
Olive Green	culture; community; beliefs other than religion
Maroon	related to cultural relativism; racism
Bright Green	medical professional experience; diagnoses
Teal	terminology used to identify the practice; issues of conflation and misunderstanding
Brown	feelings
Cyan	male position; male perspective; male related
Magenta	voice of the survivors as relayed by Participant
Red	religion; religious
Light Orange	the word feminism

As can be seen in the tables and pie charts above, the narrative data did not produce a significant gap or difference in the order of the themes or in the weighting of each. The following tables shows the top four consensus themes that emerged, however, I did not include **recommendations** as a consensus as some of those will be included in Chapters 6 and 8 of this research where I summarize the key elements and state their potential contribution to knowledge and practice.

Table 4: The top 4 color-coded consensus themes that emerged from participants in the United States and in the United Kingdom, minus the recommendations theme. (as previously noted)

Top Themes in United States Analysis							
	Prof Role	Lawyers	Physician/Nurses	Social Workers	Researchers	Business Executives	Total U.S.
Color Code Key	# Prof Thematic Analysis	1	2	4	2	2	11
	law	4	8	17	8	6	43
	related to gaps in knowledge	1	9	19	5	8	42
	culture; community; beliefs other than religion	2	8	15	4	8	37
	related to cultural relativism; racism	2	5	9	3	2	21

Top Themes in United Kingdom Analysis						
	Prof Role	Lawyers	Physician/Midwives	Social Workers	Researchers	Total U.K.
Color Code Key	# Prof Thematic Analysis	1	4	2	1	8
	related to gaps in knowledge	3	20	7	1	31
	law	5	14	5	2	26
	culture; community; beliefs other than religion	5	11	5	2	23
	related to cultural relativism; racism	1	12	6	1	20

The following four pages contain tables of color-coded samples of texts of the narratives provided by the various professional roles of the participants. These tables show that, in total, the United States and the United Kingdom participants share consensus on which issues comprise the top four themes. The only difference is in the order of the first two themes, issues relating to law and issues relating to gaps in knowledge. In the following tables (4(a) through 4(d) I have presented the themes with two samples of texts of the narratives from each profession, in the order of theme consensus as depicted by the United Kingdom Participants (Table 4) above:

- Table 4(a): Color-coded sample extracts of texts of the narratives that relate to gaps in knowledge coded with Navy Blue.
- Table 4(b): Color-coded sample extracts of texts of the narratives that relate to law coded with Yellow.
- Table 4(c): Color-coded sample extracts of texts of the narratives that relate to culture; community; beliefs other than religion coded with Olive Green.
- Table 4(d): Color-coded sample extracts of texts of the narratives that relate to cultural relativism; racism coded with Burgundy.

Table 4(a):

U.K. Participants		
Prof Role	Navy Blue: related to gaps in knowledge	
Lawyers	Ignorance and cognitive dissonance in all level of government, religious entities, society, legislation, the justice system, police, etc., remain rampant, locally and globally.	When the 2003 Act was passed, FGCS (cosmetic genital surgery) was relatively uncommon. What few surgeons realize, is that whether or not the patient is consenting to genital surgery the Act makes FGCS unlawful.
Physicians/Midwives	I did a survey 2-3 years ago to look at the knowledge base of women of the community around FGM and more than 50% didn't know anything about what they had been through and they knew nothing about the law in the UK.	We have members of staff who have been subjected to FGM and they did not know it. They're in their 40's - 50's and it's quite difficult. I was working on the FGM curriculum and I was asked to explain something about the law. After the meeting one took me aside and said <i>you mean that's illegal and its dangerous?</i> She realized in that moment that much of her ill health and sex issues were related to FGM. She had struggled with her health and deliveries for years and not one Dr. had said anything about it.
Social Workers	We have a surgeon that goes to Kenya a few times a year to perform reconstructive surgeries. She says the fistula rate and the maternal death rate is shocking because of FGM. But the country hides it, they'll label it something like sexual reproductive issues or something else. They don't want their funding affected. They misrepresent the data.	The girls are taught to not speak about it. Ever. FGM is not discussed. Ever. Still. It is not discussed in the families or amongst the women. Even the fistula issue or a woman who dies during birth, or a girl dies from FGM, they say that the woman or girl was cursed instead of a problem related to FGM. It is changing but too slowly.
Researchers	The law really can't address children's rights and child safety effectively without looking at the particular country's general approach to child abuse, protection and safeguarding.	It tells you the profession's mindset about women's issues and rights which includes children, when you cannot send an email that includes female anatomy without the corporate search engine rejecting it as adult material, and this is a medical institution. We have a long way to go.
U.S. Participants		
Prof Role	Navy Blue: related to gaps in knowledge	
Lawyers	The gap between the dimension of the problem and the lack of research and resources being devoted to it is shameful given the privilege we have living in this nation.	The US is the only country in the world that has not adopted the Convention on the Rights of the Child. The US has not economic and social/cultural rights. Civil political rights only.
Physicians/Midwives	There are diagnoses codes for FGM, but nobody uses them. Nobody even knows what words to use. American doctors do not hold their judgment from their faces. It becomes a nightmare for the patient. It's a shame.	We do not know the size of the problem because there is no US evidence-based data; the US does not have mandatory reporting and OB/GYNs and peds are not compliant; they don't document the medical records; don't use the required ICD-10's for it.
Social Workers	When a law is passed there is no formal notification. There may be something in the newspaper, maybe, but accountable professionals do not receive any official notification. There is no organized communication from the DoH.	The law in the US is not effective, does not provide protection. Right now, asylum may be the only effective legal means of protection, and that's if you find a good pro-bono lawyer and get in line. Oh, and cross your fingers.
Researchers	The law is a solution to a problem we haven't reached agreement on: child abuse.	The notion that FGM, FGC rather, improves fertility is completely against evidence.
Business Executives	What's news for me, is that the practice is performed by women who make money. It's their living in the community. We have so much work to do.	We have no reporting mandate in the US, like they have in the UK who's more advanced. FGM is just coming onto the radar at the national and state level so it's still in it infancy. Most know nothing.

Table 4(b):

U.K. Participants		
Prof Role	Yellow Highlight: Law	
Lawyers	The general intention and presumption of the law was that prosecution should relate to the cultural forced practice on girls and women, however, the 1st prosecution was towards a DoH physician.	Many more abolition forces and advocates today use the language of pain and harm combined with the language of the law which is essential to battle ignorance.
Physicians/Midwives	The law requires we examine the woman on the first OB appt but sometimes they will decline an examination. You give them their space. We always bring it up. We have to.	There are many different areas in the UK, Northern Ireland, Scotland, etc. the laws are only slightly different, they're called different things, at the end of the day all of the laws encompass the notion of safeguarding individuals, women and children.
Social Workers	So much has been done, and so much hasn't.	My country has a very beautiful law against FGM however it does not prevent anything.
Researchers	In many countries, not just the UK, the practice is illegal, but there is rarely prosecution for intra-familial abuse.	You must understand that the UK took a long time to get where we are with the law.
U.S. Participants		
Prof Role	Yellow Highlight: Law	
Lawyers	The issue of law, I can't say that it's always an essential element, but it provides a basis, you need standards, you need metrics and you need some form of accountability. Unless there's an incentive of some sort, either coming from the public or from the people who are charged with enforcing the law, it doesn't happen.	When abuse or a crime comes from within a family, most people misunderstand it and they are inclined to turn the other way because it seems too complicated. Enforcement may feel like they're treading on thin ice, they don't really want to get in the middle and be attacked by someone who says they're anti-Muslim or anti-African. No one at the top is making it a priority.
Physicians/Midwives	The problem with legislation is fear is not the way you get people to change. It's not how I get people to stop smoking; it's not how I get people to lose weight; it should be illegal but there should be so much more than law.	The Department of Justice tells some encouraging stories about derailing some family's intentions of cutting, that when they learned of the law they did not go through with it. The problem is, where can they learn the law?
Social Workers	A lot of states don't have FGM listed as child abuse, so it remains unrecognized and unreported by law enforcement, clinicians along with many others.	Having legislation passed that doesn't include funding is very common. Laws will not stop the practice but they are needed for guidance.
Researchers	I thought it would be easy to pass legislation on something like FGM because it seems quite obvious. It has turned out to be not that easy.	Law seems to lead to the perpetuation of the practice and resistance to the practice.
Business Executives	The US is the only country that has not ratified the Convention on the Rights of the Child.	The US likes to say we don't need children's rights laws because we already have sweeping protections in place. The problem is we do not. We love to say children are the future. That is true, if they survive their childhood. Child abuse in the US: the uncomfortable truth.

Table 4(c):

U.K. Participants		
Prof Role	Olive Green: culture; community; beliefs other than religion	
Lawyers	Acts of violence have been justified by the law and society as the women victims are cast as stereotypes (sluts, whores, loose) using myths of promiscuity as earning the offensive and violent behavior, <i>they had asked for it</i> .	It is clear in these communities, women are a group of persons sharing a common characteristic which is namely a position of social inferiority as compared with men. To define the group in this way is a characteristic that exists regardless of FGM.
Physicians/Midwives	Sierra Leone has an election next week. The politicians go to the villages and give money to families whose belief is that for their daughters to become marriageable they have to perform FGM. <i>If you vote for me, I will give you \$10,000 towards FGM.</i> FGM is an expensive event in some villages. They bargain for votes.	We have women after a couple of OB appointments, and we had a plan in place to perform the deinfibulation procedure and they never turn up again until delivery. They tell you straight up <i>my Mum said, my Auntie said ...</i> It has to be done at delivery and its which is dangerous.
Social Workers	It is not talked about beforehand or afterwards. The girl is told you're going to become a woman. And for you to become a woman, a proper woman, you're going to be cut. You actually never sit down to discuss it. Before. After. Never.	The power is not the mother's alone. I have seen many times, where people go home on holiday, they leave their daughters with their mothers-in-laws or grandmother and when they return their daughter is cut. What do you then do to your grandmother? Your mother-in-law?
Researchers	The survivors are beginning to come out more frequently now, to share their stories. They all have different stories, different reason as to why it was done, the reasons of the cultures for the traditions You need to understand the earth of the root to dig it out.	The youth are becoming much more aware of FGM, much more aware because of the controversy and access to the internet. To you and me, there is no controversy, we've made the journey. It is just the beginning of theirs, they need help in understanding so they can make it safely through the controversy.
U.S. Participants		
Prof Role	Olive Green: Culture; community; beliefs other than religion	
Lawyers	Change occurs from within societies, I think its hard to impose it from outside. You can rattle the cage, you can raise the concerns, you can strengthen and empower locals, give them a lifeline of protection, financial support, etc. But, ultimately societies change from within.	The relation of men and women in all this, a lot of the professionals that run things, whether it's a police force or district attorney's office, are men and men have a hard time dealing with issues like this. These men need help. If there is only women working on it, it won't succeed.
Physicians/Midwives	We talk a lot about minimizing the teaching experience for these women. Many women in the child bearing setting in the US experience mistreatment but the mistreatment looks a bit different depending on where it occurs. I find these problems tend to be worse for women of color and tend to be worse yet for women with an FGM history.	As a white woman I've made a clear choice to not talk about ending FGM/C on the African continent. When I do talk about it, I frame it in improving the care that we provide as nurses and midwives who are rarely going to be culturally congruent with the women we're serving in these instances, given the demographics.
Social Workers	I don't know that my mom specifically thinks that it's wrong, wrong, but she feels like people shouldn't do it any more because it is against the law now. My dad definitely agrees that it's wrong. He's the oldest of many and had four sisters and he had no idea that his sisters had undergone it, which is very typical. It is relegated to the world of women.	In the US, there is still a lack of recognition, or wanting to recognize FGM as a form of gender violence, or child abuse. Funding is doled out by type of child abuse and there isn't any specific funding for FGM as a form of child abuse because it hasn't been declared, officially, as child abuse and put on the list. It's still an immigrant issue. Someone elses problem.
Researchers	People have to start referring to FGM in terms of child abuse and not culture. When it is spoken about as culture people have an opportunity to stand back and not get involved. It doesn't matter what means are provided, the end is harm, pain, even death.	Many people in the diaspora communities tell us that they practice certain traditions in the US that are no longer practiced in the home country. And, sometimes they don't even know that the tradition they're still practicing in the US is no longer practiced in their home community.
Business Executives	The stories of the communities are very powerful. There are various narratives of the survivors, as many differences as there are similarities. Some survivors feel they've been lumped all together as if they are all the same. Another form of discrimination. Each voice is different and must be heard as such.	In a country where a law speaks to enforcement but doesn't fund the education of it, the communities will take the practice underground. They will start doing it on babies and we will lose the war. The children will lose.

Table 4(d):

U.K. Participants		
Prof Role	Burgundy Highlight: related to cultural relativism; racism	
Lawyers	Hypersexualization and objectivization of girls and women in western culture is used to promote and safeguard FGM by relativists and some of those in the cultures that practice it.	We do work both in the UK and Africa, but we engage at different levels in each because we have developed as a diaspora community. We see things differently however, we do not see people differently as humans with rights. We are the same.
Physicians/Midwives	This is about human rights, protecting. Whether your white, black, blue or green, if you do nothing, I will see you as a racist.	If we were talking about blue-eyed blonde girls with pigtails, it would be outrageous.
Social Workers	It's not that the cultural context is unimportant, it's rather critical to understanding. People bring with them what are practices in one country to a country where they are considered crimes. This is not new. It's the multitude of perspectives it's being met with that is the problem. We need to educate the country in addition to the communities so we have congruence.	We cannot start with the language of the law, our own principles; we have to start where they are and build a bridge. We don't speak the same words, or language even, but we all speak love of our children. We all understand that.
Researchers	This whole notion of my grandmother went through it, my mother went through it, that it is generational therefore nothing bad about it; nothing bad about a cultural tradition that says when the girls or women die from it that <i>she wasn't clean or her family was cursed</i> . That's not education, that's discrimination.	The argument that a white woman cannot speak about FGM, that it is an issue that belongs to the black community is ridiculous. Nowadays there is a craze about African women and their culture and it has been twisted out of context. These violations go beyond race; go beyond nationality and culture. We are human.
U.S. Participants		
Prof Role	Burgundy Highlight: related to cultural relativism; racism	
Lawyers	This notion of cultural relativity, <i>it may not be the way we do things but that is their culture, leave them to it</i> . I think you need to take that on rather aggressively.	Cultural relativists give a break to a lot of people who represent the most regressive part of different cultures, but for the people on the receiving end of the abuse that's not very satisfying or helpful. It's just selfish isn't it. A privileged selfishness.
Physicians/Midwives	I get a lot of pushback in this country, a subset of millennials who are way too placed in cultural relativism, to protect their own privileged position. I think its lazy. Not everything is OK.	We are asking clinicians to do what they have been trained to do since day one, but because this is a practice that comes with cultural or religious connotations that don't belong to the U.S., provider's give themselves license to ignore it. That's a compliance problem in every way.
Social Workers	We need to move away from this harm as culture, as if it is owned by any one culture. Culture only gave this harm a home and a name but harms of learned traditions go everywhere, in every home by every name. This is harm of many from many. Harms of humans from humans. Harm is in and of the human not the culture.	Some argue that male and female circumcision are relatable in an ethical framework. <i>Whose ethics</i> has become the question. <i>Who's in charge in a nation of many cultures, religions, beliefs, preferences, ideologies</i> . Many someone's have to take a stand. It should be humanity that prevails, not relativity.
Researchers	There's a difference between being culturally sensitive and still applying basic humanity to a situation. What's sensitive about allowing a child to be harmed, for any reason. Harmed, not inconvenienced until they're an adult. HARMED.	Decolonization theory imagery codes roles of savior, hero, savage - larger social norms of burdened agency. What role one decides to play is telling. How do we understand agency in such a way that we don't criticize the agency of others who choose differently.
Business Executives	Some people say we should only do education and outreach and that criminalization is targeting communities. FGM happens in so many different communities, cultures, ethnic and religious backgrounds, even more so in the diaspora. Laws always have targeted audiences, that's the point of them. It's no different here. To not act fuels politics with racism.	Most Americans have no idea that this type of thing goes on in the U.S. and when told about it they're shocked and say <i>well, I wouldn't do that but that's their right as parents</i> . However, then some go home and behind closed doors commit their own acts of abuse. Americans want to think they are different, more civilized and will tell you so, when in fact they just have well monied walls called democracy to hide their own crimes.

The thematic analysis shows significant consensus between the US and the UK at this stage of analysis.

Words and Feelings

What the numbers do not convey are the feelings expressed while telling the stories by a number of participants. The feelings were expressed sometimes in words and often in body language, tone of voice, pitch, facial expressions and energy level. Every participant expressed some level of emotion about the practice, how they felt about it and used phrases including:

- *incensed by the brutality; angry;*
- *really shocked; completely shocked;*
- *it makes me cross my legs talking about it now;*
- *really sad; this is obviously horrible;*
- *felt horrible; I was scared, the horror;*
- *this is the kind of stuff that keeps you up at night;*
- *it stays with you; it never leaves you;*
- *to understand the pain, it's excruciating;*
- *conflicted; frustrated.*

In the immediate aftermath of the encounters I did not give much 'thought' to them, perhaps to keep myself from merging with them, but when I began to immerse myself in the recordings I had made, I became drawn into the feelings. This attempt at sense making is both subjective, as I was 'in the room' with every participant, and observational, informed by my professional experience in being highly attentive and observant in my professional role as a mentor for individuals and teams. In listening to the recordings again and again through transcribing them I was struck by what was being said by several of the U.S. participants was not particularly emotionally charged, not in the way it was in the participants from the U.K. I felt a sense of what is considered 'professional protocol' in the Americans who, although at the frontline of interventions on FGM, spoke about the issues at a distance, not necessarily linking FGM to child abuse at the hands of parents and or significant others. One explanation offered is that a number of U.S. participants have only dealt with FGM as an administrative/legislative encounter not a clinical encounter. The U.S. clinicians, however, with direct experience of survivors, couched their words as if they did not want to be seen as judgmental for taking a position against a practice that is not 'of the U.S.' However when speaking of FGM in context with child abuse in general, I witnessed the same hesitation. They were all quick to say, and were firm in expressing their belief, that FGM is a form of child abuse and should be ended, but many times there was a segue of some kind such as starting to talk about the rights of a woman, not the rights of a child. Even though FGM by and large happens to children, young girls and even babies, many of the U.S. participants steered away from rights of children and the trauma inflicted upon the child, to

the rights of the woman who may or may not have been harmed as a child. Such segues I felt were due to a respect that is commonly voiced for parental rights in the U.S., a respect that causes a hesitation to hold parents accountable.

With the U.K. participants, their words and behaviors were those of conviction — ‘to the bone.’ Their affect was more of a deeply held principle than one of obedience of law. They did not hesitate to call out the community, the parents, and the government; they had no problem naming the multiple perpetrators and accessories and discussing the dilemmas they face in practice between legislation and enforcement along with the dilemmas faced by both children and their mothers living in the diaspora communities. Although they clearly held respect for parents, they voiced greater respect for the human rights of children. The explanation for this may be that the U.K. participants have the benefit of a government published plan whose focus is to bring about long-term cultural change by tackling FGM as a form of child abuse. The U.K. government also makes it clear that professionals have a responsibility to save children from harm and ensure that families know that FGM, along with other forms of child abuse, is illegal. The U.K. professionals may display more conviction for the cause because they are actively directed and supported by their government. Some of the U.S. professionals may display hesitation to enact enforcement in that they are waiting (some are pushing) for better support from the government; waiting for their government to legislate and mandate effective children’s rights and enforcement, a government that currently holds parental rights primary to children’s human rights. It is not surprising then that I began to formulate recommendations relating to this issue discussed in more detail in Chapter 8.

The next chapter looks at Stage 2 of the Analysis. This was not a standard way to approach interpretation in relation to the literature but it is a way that made sense to me: to put the participants voices in as live literature and contextualize their contributions in the existing knowledge landscape. But it was also an emotional and ethical choice of fairness to my participants and to respect the voices of practitioner knowledge, not as some marginalized group, but as professionals whose experience contributes to knowledge which can in turn inform a range of professional practices pertaining to child abuse prevention.

5. Analysis Stage 2: Interpreting the results of the Stage 1 Analysis: through the existing knowledge landscape

Literature of Voices on FGM

Rather than look at gaps in the literature which the analysis might highlight I wanted to integrate the voices of the participants, nearly all women and all front-line practitioners in various roles, into the knowledge landscape which was in part guided by what was emerging from the interviews over time. In this way the contradictions, confusions, cognitive dissonance, hidden and overt power dynamics and the law and practice gaps which were evident in their narratives could be contextualized and better understood. It is also a way to surface individual narratives of the past, living stories in the present which are interconnected to form a narrative of FGM and how the antenarrative and living stories can project “the past lines into the future.”⁸³ The voices of the participants are preceded by each their codified identifier (P####).

Female Genital Mutilation: Definitions and Types

(P001) *In the mid to late 1970's, I met a male Doctor, an OB/Gyn, who provided care at a women's clinic/hospital in London and he told her stories of providing care to many African women who presented for OB care and their vaginas had been torn and mutilated, sewn up and reduced to a very small hole. At this time the participant made a gesture with her right hand, her thumb extended with the tip of her index finger tucked into the crook where her thumb webbed to her palm, creating an enclosed opening of that of a very small circle, approximately the circumference of a #2 pencil. A colleague and I went to North Middlesex Hospital where a physician showed us slides of women's vaginas post-FGM, they were unrecognizable. Unfamiliar in every sense to our own bodies. The physician said that the mutilation had been performed in unsterile conditions, with shards of glass, knives, homemade cutlery and box-cutters. There were hundreds of slides and looking at them was awful. Somali and Kenyan populations, communities where the cultural practice was prevalent, were growing quickly in Britain and I felt compelled to get more involved. My colleague and I traveled to African clinics in both Somalia and Kenya to learn more about the communities where FGM is practiced and also where funding has been made available to support medical services to the affected women to fix their vaginas. We also traveled with charities to Ethiopia to hear the stories of affected women to hear and to learn ways to help them effectively discourage FGM.*

“Female genital mutilation (FGM) comprises all procedures that involve the partial or total removal of external genitalia or other injury to the female genital organs for non-medical reasons. The procedure has no known health benefits. Moreover, the removal of or damage to

⁸³ Boje, D. (2012) p. 3. *What is Antenarrative*. [ebook] Available at: https://business.nmsu.edu/~dboje/papers/what_is_antennarrative.htm [Accessed 25 Oct. 2018].

healthy genital tissue interferes with the natural functioning of the body and may cause several immediate and long-term health consequences. Girls and women who have undergone FGM are therefore at risk of suffering from its complications throughout their lives. In addition, FGM violates a series of well-established human rights principles, including the principles of equality and non-discrimination on the basis of sex, the right to life when the procedure results in death, and the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, as well as the rights of the child.”⁸⁴

UNICEF reports that “female genital mutilation/cutting (FGM/C) is a human rights issue that affects girls and women worldwide and that while the exact number of girls and women who have undergone FGM/C remains unknown, at least 200 million girls and women in 30 countries have been subjected to the practice.”⁸⁵

“UNICEF was established on December 11, 1946 by the United Nations to meet the emergency needs of children in post-war Europe and China. Its full name was the United Nations International Children’s Emergency Fund. In 1950, its mandate was broadened to address the long-term needs of children and women in developing countries everywhere. UNICEF became a permanent part of the United Nations system in 1953 when its name was shortened to the United Nations Children’s Fund, however, it retained its original acronym.”⁸⁶

“UNICEF promotes the rights and wellbeing of every child and works in 190 countries and territories, focusing special effort on reaching the most vulnerable and excluded children, to the benefit of all children, everywhere.”⁸⁷

UNICEF maintains a global database on several FGM/C indicators “which seeks to highlight trends, emphasize patterns found within the data and strategically inform policy, advocacy and programmatic efforts to end the practice worldwide.”⁸⁸ Available data from their 2016 report shows that although the cultural

“practice of FGM/C is highly concentrated in countries from...the Atlantic coast to the Horn of Africa, in areas of the Middle East such as Iraq and Yemen, and in some

⁸⁴ Stein, K. and Chou, D. (2016) *WHO Guidelines on the Management of Health Complications from Female Genital Mutilation*, p. viii, *Executive Summary*, Geneva: WHO Library Cataloguing-In-Publication Data

http://apps.who.int/iris/bitstream/handle/10665/206437/9789241549646_eng.pdf;jsessionid=2534FD0CD67959A5A81073138C9C8088?sequence=1

⁸⁵ UNICEF, *UNICEF Data Work on FGM/C*

https://www.unicef.org/media/files/FGMC_2016_brochure_final_UNICEF_SPREAD.pdf

⁸⁶ UNICEF, *About UNICEF* https://www.unicef.org/about/who/index_introduction.html

⁸⁷ *Ibid*

⁸⁸ UNICEF, *UNICEF Data Work on FGM/C*

https://www.unicef.org/media/files/FGMC_2016_brochure_final_UNICEF_SPREAD.pdf

countries of Asia like Indonesia...the human rights violation is performed worldwide, affecting girls and women in some areas of South America such as Columbia, India, Malaysia, Oman, and Saudi Arabia...also in diasporic communities in Europe such as the United Kingdom, and North America such as the United States...both of which for the last several decades have been destinations for migrants and immigrants from the countries where the practice still occurs.”⁸⁹

(P003) *I have seen three, maybe four, non-African, women who have had proper FGM, type III, not piercing, type III.* (participant’s emphasis). *A Portuguese woman, her father was Somalian living in Portugal, so intermarriage brings FGM. In the intermarriage, whether or not the man or the woman is from the culture, it does not matter, it is driven many times by the elders.* “As the availability of representative data of the extent of FGM/C increases, so does the number of girls and women known to have undergone the practice.”⁹⁰

The World Health Organization (WHO), has been the United Nations’ “specialized agency for health” for the past 60+ years, and became central to “the global eradication of smallpox, the control of SARS, and the ongoing campaign against polio” in addition to many other life altering and life threatening diseases. WHO’s efforts to tackle broader determinants of health such as “access to essential drugs, tobacco control and diet and nutrition” brought them “contact with issues such as globalization, poverty, social justice, and human rights.”⁹¹ In July 1995, in response to the frequency of reports of the practice of FGM and the resulting quality of health and life issues, with the potential of death as a not uncommon consequence, “WHO convened a working group on the subject of FGM.”⁹² The working group defined FGM as a human rights violation that

“comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for cultural or other non-therapeutic reasons and in 1997, WHO, UNICEF and UNFPA (United Nations Population Fund) released a joint statement identifying and classifying the different procedures into four (4) types.”⁹³

⁸⁹ Ibid.

⁹⁰ World Health Organization (WHO) *Female Genital Mutilation Fact Sheet* (2018) <http://www.who.int/en/news-room/fact-sheets/detail/female-genital-mutilation>

⁹¹ Lee, K. (2008) p. 1, *The World Health Organization (WHO)* (Kindle Edition) London: Routledge

⁹² Dorkenoo, E. (1996). *Combating Female Genital Mutilation: An Agenda for the Next Decade.* *World Health Stat Q*, [online] 49(2), pp.142 – 147 <https://www.ncbi.nlm.nih.gov/pubmed/9050193>

⁹³ WHO, UNICEF and UNFPA (1997), p. 3. *Female Genital Mutilation*. Geneva: World Health Organization, <http://apps.who.int/iris/bitstream/handle/10665/41903/9241561866.pdf?sequence=1&isAllowed=y>

An agreed-upon classification system is critical “for clinical practice, management, recording and reporting, as well as for research on prevalence, trends and consequences of FGM.”⁹⁴ Recognizing, classifying and recording the various procedures involving the practice of FGM is also critical for health care providers to effectively diagnose, treat and educate women and girls living with the many health altering effects of FGM. Although the extent of genital tissue harm and removal generally increases from Type I to Type III, there are exceptions. Severity and risk are closely related to the anatomical extent of the cutting, removal and harm, including both the type of FGM performed and the amount of tissue that is cut, which may vary between the types. “Experience with using this classification system over the past decades revealed the need to further sub-divide the categories to capture more closely the variations within each type.”⁹⁵ Following are the “different types” as released in 1997 in the WHO/UNICEF/UNFPA joint statement, with the more recent wording and sub-divisions reflected in orange bold font:⁹⁶

⁹⁴ Abdulcadir, J., Catania, L., Hindin, M., Say, L., Petignat, P. and Abdulcadir, O. (2016). Female Genital Mutilation: A Visual Reference and Learning Tool For Health Care Professionals. *Obstetrics & Gynecology*, (November, 2016) 128(5), pp.958-963

https://journals.lww.com/greenjournal/Citation/2016/11000/Female_Genital_Mutilation_A_Visual_Reference_and.4.aspx

⁹⁵ World Health Organization. (2007). *Classification of female genital mutilation*. [online] Available at: <http://www.who.int/reproductivehealth/topics/fgm/overview/en/>

⁹⁶ Stein, K. and Chou, D. (2016). *WHO Guidelines on the Management of Health Complications from Female Genital Mutilation*. Geneva: WHO Library Cataloguing-in-Publication Data, http://apps.who.int/iris/bitstream/handle/10665/206437/9789241549646_eng.pdf;jsessionid=2534FD0CD67959A5A81073138C9C8088?sequence=1

Types of Female Genital Mutilation	
Type	Typology
I	Excision of the prepuce, without or without excision of part or all of the clitoris. Partial or total removal of the clitoris and/or the prepuce (<i>clitoridectomy</i>). When it is important to distinguish between the major variations of Type I mutilation, see subdivisions Ia and Ib.
Ia	Removal of the clitoral hood or prepuce only.
Ib	Removal of the clitoris with the prepuce.
II	Excision of the clitoris with partial or total excision of the labia minora. Partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora (<i>excision</i>). When it is important to distinguish between the major variations that have been documented, see sub-divisions IIa, IIb, and IIc.
IIa	Removal of the labia minora only.
IIb	Partial or total removal of the clitoris, the labia minora and the labia majora.
IIc	Partial or total removal of the clitoris, the labia minora and the labia majora.
III	Excision of part or all of the external genitalia and stitching/narrowing of the vaginal opening (<i>infibulation</i>). Narrowing of the vaginal orifice with creation of a covering seal by cutting and appositioning the labia minora and/or the labia majora, with or without excision of the clitoris (<i>infibulation</i>). When it is important to distinguish between variations in infibulations, see sub-divisions IIIa and IIIb
IIIa	Removal and apposition of the labia minora
IIIb	Removal and apposition of the labia majora
IV	Unclassified: Includes pricking, piercing or incising of the clitoris and/or labia; stretching of the clitoris and/or labia; cauterization by burning of the clitoris and surrounding tissue; scraping of tissue surrounding the vaginal orifice (<i>angurya cuts</i>) or cutting of the vagina (<i>gishiri cuts</i>); introduction of corrosive substances or herbs into the vagina to cause bleeding or for the purposes of tightening or narrowing it; and other procedure that falls under the definition of female genital mutilation given above. All other harmful procedures to the female genitalia for non-medical purposes, for example: pricking, piercing, incising, scraping and cauterization.

In an article published by the AHA Foundation, Ayaan Hirsi Ali, founder and a survivor of the practice herself, has campaigned against the practice both globally and in the United States, states that:

“setting out these practices in detail is disturbing, but it is crucial to speak openly about what is taking place rather than shroud it in euphemism so as not to cause offense. It is hard for people outside of communities practicing FGM to understand what is taking place. One example that has stayed with me over the years was a woman in the Netherlands that I translated for. I accompanied her to visit an obstetrician as she was having great difficulty with urination and menstruation. She showed the doctor her genitals after being subjected to the fifth and most severe type of FGM with her genitals completely removed. The stunned doctor asked if she had been burned. He could not

believe that what had been done to her was deliberate, he assumed it must have been a horrific accident. But it was no accident.”⁹⁷

In Hirsi Ali’s statement above, she references a fifth and most severe type of FGM. The AHA Foundation posits there are “five types” of FGM performed and that four of them are “unarguably mutilation,” and that the first as presented below is “designed to symbolize mutilation.”⁹⁸ Following are these five types (verbatim) as defined by the AHA Foundation on April 28, 2017 and as published in Hirsi Ali’s authored opinion to Fox News published that same day, from the mildest to the most severe:

1. The ‘nick’: The girl is held down, her legs pushed apart and a needle is used to prick her clitoris. The incision is similar to a finger prick test for diabetes, blood comes out and the girl is considered ‘cleansed’. Often there is a ritual with a little party to celebrate the procedure.

2. ‘Female circumcision’: The second method in terms of severity is often compared to male circumcision. The hood of the clitoris is cut off, in some cases the tip of the clitoris is cut off, known as clitoridectomy. In this form, an otherwise normally functioning body part is sliced off and thrown out. Disfiguring a little girl’s genitals in this way cannot rationally be considered anything but mutilation.

3. Intermediate infibulation: In the third form of FGM, as much of the clitoris as possible is dug out and removed. The inner labia are cut off and the outer labia are sewn together leaving two small holes for urination and menstruation. In places where this is done without ‘medical intervention’ girls have been known to bleed to death. After infibulation is done it is imperceptible what has taken place when the girl stands up with her legs together, but in the obstetrician’s position it is clearly visible that parts of her genitals have been removed and sewn up.

4. Total infibulation: In the fourth type of FGM the clitoris and inner labia are cut off and the outer labia are cut or scraped off too, then sewn up. When the girl stands, even with her legs closed, her genitals clearly look different.”

5. Vaginal fusing: In the fifth type of FGM, which is rarely discussed, all of the fourth type is done and then the inner walls of the vagina are scratched to cause bleeding and the

⁹⁷ Hirsi Ali, A. (2017). *Ayaan Hirsi Ali: Female genital mutilation and what we're really talking about beneath the weasel words 'genital cutting'* - The AHA Foundation. [online] The AHA Foundation. <https://www.theahafoundation.org/ayaan-hirsi-ali-female-genital-mutilation-and-what-were-really-talking-about-beneath-the-weasel-words-genital-cutting/> [Accessed 2 Aug. 2018].

⁹⁸ Theahafoundation.org. (2018). *AHA Foundation Why we hesitate to protect girls from FGM in the United States, Executive Summary by Ayaan Hirsi Ali*. [online] Available at: <https://www.theahafoundation.org/wp-content/uploads/2018/07/FGM-State-Legislation-Report.pdf> [Accessed 29 Jul. 2018].

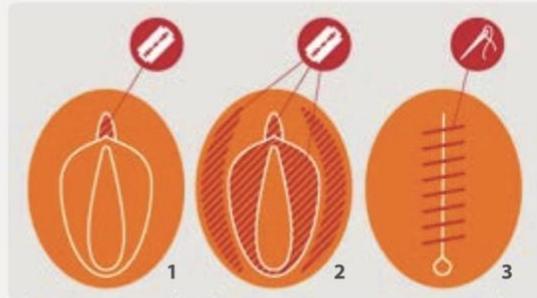
sewing is again done. The girl's feet are tied together in an effort to fuse the two sides of the vagina with scar tissue to close it up. Children can die undergoing this.⁹⁹

In another presentation, provided by The AHA Foundation in 2018, the four types of FGM in the same order as that referenced earlier by WHO/UNICEF/UNFPA, are presented with a rudimentary anatomical diagram characterizing Types I, II and III, with the fourth reflecting only 'the nick' whereas WHO/UNICEF/UNFPA includes far more damaging and severe practices in IV. However, the diagram is useful in that it gives a visual, albeit, rudimentary, view from the surface of the anatomy.¹⁰⁰

Female genital mutilation (FGM) is a form of gender-based violence recognized as a violation of women's and girls' fundamental human rights.

There are four major types of FGM:

- ① **Clitoridectomy:** Involves the removal of the clitoris and or clitoral hood, an otherwise normally functioning body part that is sliced off and thrown away.
- ② **Intermediate infibulation:** As much of the clitoris as possible is removed and the labia minora cut, often times the labia majora as well to narrow the vaginal opening.
- ③ **Vaginal fusing or total infibulation:** Total infibulation includes the clitoris and the inner labia being removed and the outer labia cut or scraped, then sewn together. Vaginal fusing is the most severe form of FGM which includes all aspects of total infibulation, as well as the inner walls of the vagina scratched to cause bleeding and sewing again. The girl's feet are then tied together in an effort to fuse the two sides of the vagina with scar tissue to close it up.
- ④ **The 'nick':** Involves pushing a girl's legs apart and using a needle to prick her clitoris, typically to draw blood. This can sometimes include cutting, scraping or cauterizing the girls genitals.



⁹⁹ Hirsi-Ali, A. (2017). *Ayaan Hirsi Ali: Female genital mutilation and what we're really talking about beneath the weasel words 'genital cutting'*. [online] Fox News. Available at: <https://www.theahafoundation.org/ayaan-hirsi-ali-female-genital-mutilation-and-what-were-really-talking-about-beneath-the-weasel-words-genital-cutting/> [Accessed 2 Aug. 2018] and <https://www.foxnews.com/opinion/ayaan-hirsi-ali-female-genital-mutilation-and-what-were-really-talking-about-beneath-the-weasel-words-genital-cutting> [Accessed 2 Aug. 2018].

¹⁰⁰ Theahafoundation.org. (2018). *AHA Foundation Why we hesitate to protect girls from FGM in the United States, Executive Summary by Ayaan Hirsi Ali*. [online] Available at: <https://www.theahafoundation.org/wp-content/uploads/2018/07/FGM-State-Legislation-Report.pdf> [Accessed 29 Jul. 2018].

The harmful and permanent physical and psychological affects that result from FGM

(P002) *I had a patient many years ago, from Nigeria, she was FGM'd at age 40. She was born in the UK but went back home when she got married, the husband wanted to go home, they had 4 children. It was a very abusive relationship. She got divorced and left to come back to the UK. She was fast asleep one night, people came into her room, tied her down and mutilated her female parts. That was a punishment from her husband. I cried when I saw what they had done to her. He went back to his country. The stress of the result, her bad health, she had a stroke and is in a home now.*

(P04) *You asked me how I got involved and I have remembered something since we have been talking. I had a dear friend who was a little bit older than me, she was a west London midwife, she was from Somalia. A Christian from Somalia. She had been circumcised, had type 3, and she eventually died of kidney failure. It's very hard to get a kidney match for people from East Africa, at that time. She was a dear friend of mine and a very powerful political activist in the community and I used to think there but for the grace of God go I. She had repeated urinary tract infections, with type 3, you commonly get urinary retention, you get repeated urinary retention damage to the bladder walls and then urine backs up into the kidneys and then you get damage to the kidney vessels themselves and when that happens too many times, their kidneys fail, and they die. Once you've got static urine, the infection backs up right into the kidneys and the infection can go everywhere. She had chronic infections. She was 46 years old when she died. She was a lovely woman, and she never had children she wanted as a result of infertility associated with retention of menses and chronic infections and she lived a life that many women with type 3 experience. It is horrible. Women in rural areas with these issues die at young ages regularly. They die giving birth. They die from infections. **They just die.** (participant's emphasis)*

FGM has no health benefits. The procedures are painful and traumatic and are often performed under unsterile conditions without anesthesia, by a traditional practitioner who has no accredited training and little knowledge of female anatomy or what is required to effectively manage the many possible adverse events. "The removal" and harmful damage of healthy and "normal female genital tissue interferes with" and sometimes impedes "the natural functions of girls and women's bodies" and those who have been subjected to this harmful human rights violation suffer from a myriad of both immediate and "long-term" health consequences."¹⁰¹ "Generally speaking, risks increase with increasing severity of the procedure."¹⁰²

¹⁰¹ Stein, K. and Chou, D. (2016) Section 1.3. *WHO Guidelines on the Management of Health Complications from Female Genital Mutilation*. Geneva: WHO Library Cataloguing-in-Publication Data, http://apps.who.int/iris/bitstream/handle/10665/206437/9789241549646_eng.pdf;jsessionid=2534FD0CD67959A5A81073138C9C8088?sequence=1

¹⁰² World Health Organization (WHO) Female Genital Mutilation Fact Sheet (2018) <http://www.who.int/en/news-room/fact-sheets/detail/female-genital-mutilation>

Health Risks of FGM ¹⁰³	
Risk	Remarks
Immediate Risks	
Haemorrhage	
Pain	
Shock	Haemorrhagic, neurogenic or septic
Genital Tissue Swelling	Due to inflammatory response or local infection
Infections	Acute local infections; abscess formation; septicaemia; genital and reproductive tract infections; urinary tract infections The direct association between FGM and HIV remains unclear, although the disruption of genital tissues may increase the risk of HIV transmission
Urination Problems	Acute urine retention; pain passing urine; injury to the urethra
Wound Healing Problems	
Death	Due to severe bleeding or septicaemia
OBSTETRIC RISKS	
Caesarean Section	
Postpartum Haemorrhage	Postpartum blood loss of 500 ml or more
Episiotomy	
Prolonged Labour	
Obstetric Tears/Lacerations	
Instrumental Delivery	
Difficult Labour/Dystocia	
Extended Maternal Hospital Stay	
Stillbirth and Early Neonatal Death	
Infant Resuscitation at Delivery	
SEXUAL FUNCTIONING RISKS	
Dyspareunia (pain during sexual intercourse)	There is a higher risk of dyspareunia with type 3 FGM relative to types 1 and 2
Decreased Sexual Satisfaction	
Reduced Sexual Desire and Arousal	
Decreased Lubrication During Sexual Intercourse	
Reduced Frequency of Orgasm or Anorgasmia	
PSYCHOLOGICAL RISKS	
Post-Traumatic Stress Disorder (PTSD)	
Anxiety Disorders	
Depression	
LONG-TERM RISKS	
Genital Tissue Damage	With consequent chronic vulvar and clitoral pain
Vaginal Discharge	Due to chronic genital tract infections
Vaginal Itching	
Menstrual Problems	Dysmenorrhea, irregular menses and difficulty in passing menstrual blood
Reproductive Tract Infections	Can cause chronic pelvic pain
Chronic Genital Infections	Including risk of bacterial vaginosis
Urinary Tract Infections	Often recurrent
Painful urination	Due to obstruction and recurrent urinary tract infections

¹⁰³ Stein, K. and Chou, D. (2016) p. 6, Box 1.2. *WHO Guidelines on the Management of Health Complications from Female Genital Mutilation*. Geneva: WHO Library Cataloguing-in-Publication Data, http://apps.who.int/iris/bitstream/handle/10665/206437/9789241549646_eng.pdf;jsessionid=2534FD0CD67959A5A81073138C9C8088?sequence=1

The above list of immediate and long-term consequences of FGM is provided by the World Health Organization.¹⁰⁴ Given the research, ‘death’ should also be added to the list of ‘long-term consequences.’ As an example, “James Brady, press secretary to United States President Ronald Reagan,” who “was shot during the assassination attempt on Reagan in 1981,” died in 2014 and his death was declared a homicide by the medical examiner, “resulting from the gunshot wound he suffered in the assassination attempt” more than three decades before.¹⁰⁵ James Brady lived the rest of his life with partial paralysis, in a wheelchair. In these cases, forensic examiners must trace a condition, or conditions, to its cause, and then the cause before that, and the cause before that. A chain link of causes that can begin and end with a decades old injury. People who are at an increased risk for urinary tract infections that result from a lack of motility and or obstruction that results from an injury, such as a gunshot wound resulting in paralysis or the consequences of FGM as illustrated in the story told above of a survivor who eventually succumbed to kidney failure and sepsis, can die years later as a result of the primary injury.

As articulated by Hirsi Ali, documenting, discussing or even just reading about the practice of FGM, the various types and consequences, is difficult, even for clinicians, advocates and researchers: (P008) *I didn't realize until after I completed the research, just how traumatizing it was for me as a researcher. I found that it played on my mind a lot, like a very mild form of almost, post-traumatic stress, to be honest with you. I wasn't really prepared for what I was being told. And it extends beyond the researcher as well. I remember the time, one of the secretary's whose job it was to type up the interview notes saying to me, 'look, is there any support services, because I have to read this day in and day out, you know, and its having an effect on me.'* We underestimate the impact that this has on people, it's a kind of secondary victimization, almost. Although the clinical definitions of the types and the health risks of FGM are difficult to document and read about, many of the actual experiences of the practice by the victims is horrendous and heart breaking, beyond both words and comprehension, and must be recognized in order to pay respect to the actual trauma and life-altering health consequences of the survivors and consider their voices when crafting policy, legislation, funding, education and training to effectively address and put a stop to this obvious human rights violation. The expression of human rights, and not the lived reality of the violations experienced by the victims, remains a discourse of the privileged elite, a language spoken by academicians, scientists, lawyers, nations, governments, bureaucrats, communities and cultures, not the individual and collective audience of the many voices of the victims at issue.¹⁰⁶ Academic and political figures

¹⁰⁴ World Health Organization (WHO) Female Genital Mutilation Fact Sheet (2018) <http://www.who.int/en/news-room/fact-sheets/detail/female-genital-mutilation>

¹⁰⁵ Hermann, P. and Ruane, M. (2014). Medical Examiner Rules James Brady's Death a Homicide. *The Washington Post*. [online] Available at: https://www.washingtonpost.com/local/crime/james-bradys-death-ruled-homicide-by-dc-medical-examiner/2014/08/08/686de224-1f41-11e4-82f9-2cd6fa8da5c4_story.html?utm_term=.683d607c5ec6 [Accessed 16 Aug. 2018].

¹⁰⁶ Ignatieff, M. (2017). Human Rights, Global Ethics, and the Ordinary Virtues. *Ethics & International Affairs*, [online] 31(01), pp.3-16. Available at: <https://www.ethicsandinternationalaffairs.org/2017/human-rights-global-ethics-ordinary-virtues/>

have created and use human rights language to mobilize the support of scientists and legislators. This language has proven to resonate with a narrow elite but falters and fails to effect great change in the communities and individuals it is ultimately intended to influence. Nations, states, and bureaucracies count the number and diffusion of human rights instruments as great progress even in the presence of an “unconscionable gap” between the instruments and their lack of effect on the many disenfranchised individuals they are intended to serve and protect.¹⁰⁷ These instruments are mainly pre-existing hegemonic frameworks and narratives that, while acknowledging that these violations exist, create a topical illusion of effectiveness simply by their presence versus a realized application and enforcement of their purpose. The presence of the law seems to serve more as a distraction from its purpose than an attraction to it. This may be because these instruments do not speak the languages nor reflect the lived realities or narratives with which the violators and their victims are already familiar thereby failing to translate effectively their particularly distinguishing prohibitions and consequences, and ultimately proving incapable of bringing about the behavioral transformation of the communities committed to such harmful traditional practices. The creation, language, application, education and enforcement of human rights laws fail to consider and address the realities of the practiced and lived experience of the violation in ways that resonate with the voices of the victims and the communities (violators) that create them. The failures of nations and their legislation to effectively address human rights violations “have come from lack of confidence in the directive powers that inhere in experience, if men have but the wit and courage to follow them.”¹⁰⁸ “Failure is not mere failure. It is instructive.”¹⁰⁹

(P001) *I was a young feminist, coming into professional practice in the 1970's, and I noticed that the law regularly failed women: violent crimes, rape and even domestic injustices such as in a divorce where women who bore children and maintained the home were judged to provide no financial contribution to the welfare of the family, therefore, earned little or no consideration for alimony or marital assets as a result. Also, acts of sexual violence were justified by the law and society as the women victims were cast as stereotypes (sluts, whores, loose) using myths of promiscuity as earning the offensive and violent behavior, 'they had asked for it.' There were few female lawyers and even fewer feminist lawyers. Most female lawyers at that time saw the law 'through men's eyes,' those of the institutions that had created the lawyers and subsequently, the laws and justice system and therefore did not challenge the status quo. In those days the term used was female circumcision and equated to male circumcision. Ignorance and cognitive dissonance in all levels of government, religious entities, society, legislation, the justice system, police, etc., remain rampant, locally and globally. Many more abolition forces and advocates*

¹⁰⁷ Ignatieff, M. (2011) p. 4. *Human Rights as Politics and Idolatry (Kindle Version)*. Princeton: Princeton University Press.

¹⁰⁸ Dewey, J. (2013) p. 11. *Experience and Nature (Kindle Version)*. United States: McCutchen Press.

¹⁰⁹ Times Higher Education (THE). (2013). *Failure is instructive*. Article quotes John Dewey. [online] Available at: <https://www.timeshighereducation.com/failure-is-instructive/2007004.article> [Accessed 9 Sep. 2018].

today use the language of pain and harm combined with the language of the law which is essential to battle this ignorance. FGM is the language of harm and pain and most accurately and effectively depicts the human rights violation that the practice is. The language of FGM must be incorporated into the language of the law to effectively address the human rights violation that the practice is.

(P002) What is missing is the survivors, it is their voice. They need to come out. They need to be heard. A few are coming out now to tell us how to shape services; they are coming out to tell us how we can work with them because it is their story and we need to respect that. I have not lived in their world. I have not been through FGM, but I have cared for a lot of those who have, and we really need to listen to them, they are the voice and their stories need to be told by them and heard by us. We need to listen. Forward is a black-led women's organization whose principle is, Never about us, without us. This is very powerful.

The message is clear, legislation must integrate the language of law with the language of harm and pain to effectively speak to, and overturn, the existing multiple dominant cultural hegemonies that have continued to persist in both the historic absence and recent presence of the law. This does not mean that new narratives need to be crafted or recreated or certified as credible by the privileged elite of scientists and legislators but rather the effective recognition, application and dissemination of the already existing narratives of the voices of the many victims, whose mutilated bodies and agencies already evidence the violation, who courageously step forward from a coerced silence and speak for themselves. Cultural theorist Elaine Scarry posits that physical acts of violence such as torture reduce victims to a prelinguistic silence: “Physical pain does not simply resist language but actively destroys it, bringing about an immediate reversion to a state anterior to language, to the sounds and cries a human being makes before language is learned.”¹¹⁰ While Scarry draws attention to the importance of expression of pain in torture, Rajali distinguishes a type that follows from torture: “the inexpressibility that matters politically is not the gap between the brain and the tongue, but between victims and their communities, a gap that is cynically calculated, a gap that shelters a state’s legitimacy.”¹¹¹

The silencing of the victims by the communities that practice FGM is a well-known tradition that accompanies all forms of violence in all societies, another is the silencing that takes place in the sciences, by the questionable ethical notion that experiencing the victims narratives as told by themselves, or with their consent as told on their behalf by their advocates or researchers, may traumatize the reading or listening audience: the notion of vicarious trauma. Researchers are expected to edit the narratives of victims, the experiences and voices of the victims of trauma, in order not to traumatize others (non-victims) in the telling of it. This ethical notion requires

¹¹⁰ Scarry, E. (1985) p. 4. *The Body in Pain: The Making and Unmaking of the World*. New York: Oxford University Press.

¹¹¹ Rejali, D. (2009). *Torture and Democracy*. Princeton: Princeton University Press.

researchers to alter and edit their words, and their participants' words, to soften the experience for the audience: to prevent their vicarious trauma. First, the community silences the victim. Then the scientists silence the victim. Then legislation makes them invisible by excluding their experiences in the creation of the language of the law resulting in laws that are mainly discourses about the practice of FGM, its types, symptoms and sequelae, and not about the reality of those who experience it and continue to live amongst its perpetrators.¹¹² The multiple private origins of this particular human rights violation, the individual's body, their home, and their community, are dissociated from the public framework and language of the law. Foucault refers to this systematic process of silencing by multiple external others as the "order of the discourse," where only the voices of the "elite privileged — the intellectuals — dominate the legislative debate" and creation of laws.¹¹³

(P001) *Many more abolition forces and advocates today use the language of pain and harm combined with the language of the law which is essential to battle this ignorance. FGM is the language of harm and pain; is the language of the law and most accurately and effectively depicts the human rights violation that the practice is.* Legislation that integrates the voice of law with the voice of pain, the voices of the victims, is what I believe Gramsci stresses in his search for

“leitmotifs that resonate with the nature and role of intellectuals (the privileged elite); and, the processes through which knowledge is produced and reproduced; and, the relationship between the knowledge of the intellectuals and the feeling subalterns” (the victims).¹¹⁴

In science and society, it is not a particular set of mental skills that defines an individual as an ‘intellectual,’ it is the role they each play in science and society: “intellectuals are not simply those who think, or think in a particular way, but those whose thoughts and pronouncements are considered to have a certain weight and authority.”¹¹⁵ Gramsci believed that the political narrative, the pronouncement of the law in this case, is only capable of mounting an effective challenge to a dominant hegemony if its foundation is rooted in the experience of the subalterns; and, that it is equally critical that the political narrative include language and expressions that resonate with those subalterns which they recognize as “their” knowledge.¹¹⁶ “What matters is

¹¹² Herzog, B. (2018) p.19. Invisibilization and Silencing as an Ethical and Sociological Challenge. *Social Epistemology*, [online] 32(1), pp.13-23. Available at: <https://www.tandfonline.com/doi/pdf/10.1080/02691728.2017.1383529?needAccess=true>.

¹¹³ Foucault, M. (1981). "The Order of Discourse." In: R. Young, ed., *Untying the Test: A Post-structural Anthology*. Boston, MA: Routledge & Kegan Paul, pp.48-78.

¹¹⁴ Crehan, K. (2016) p.18. *Gramsci's Common Sense*. Durham: Duke University Press. Note: Gramsci's concept of subalternity encompasses subordination in all its many forms, including internalized insubordination. (p, 16)

¹¹⁵ Ibid, p. 26.

¹¹⁶ Ibid, p. xi.

not the opinion of Tom, Dick, and Harry but the ensemble of opinions that have become collective and a powerful factor in society.”¹¹⁷ For legislation to be effective in the times and scale of abuse today, it must have a direct relationship with the diversity of those it is looking to affect. In the case of FGM, legislation must have a direct relationship with the children and the women they become; and with the mothers and wives they may become; and, with the cultures and communities they live in. Effective legislation must be interrelational with the many voices and lives it is looking to recognize, speak to, and influence.

Hibo Wardere’s *CUT* (2016)¹¹⁸ witnesses the genesis of the invisibilization and silencing that proves to be an ongoing challenge to the effectiveness of legislation in addressing the practice of FGM. Wardere is a Somalian-born campaigner against FGM, author, and public speaker. She moved to London in the 1980s, at the age of 18, after civil war broke out in Somalia. Given that timeline, it appears to be sometime in the 1970s when she was pinned down at just six years old and subjected to FGM. Following are extracts from her narrative that bear witness to these behaviors. Wardere speaks in explicit detail in her book about what was done to her by her mother and other women in her community and the pain she endured. I struggled with the dilemma of what extracts of her account to present as all of it is shocking but out of respect for the potential vicarious trauma of others not expecting to read such painful details in a piece of research, I have limited the extracts to those most relevant to the notions of invisibilization and silencing in the unfortunate recognition that research ethics has a respect for vicarious trauma of others while holding the awareness that this editing contributes to the overall power of silencing its victims. The level of violence and the graphic nature of it is still unavoidable. As the extract is long and gives a detailed graphic account, I have chosen to present extracts with a small amount of summarizing through paraphrasing joining up the parts.

“‘You be brave,’ my mother said. ‘I’m right here...’”¹¹⁹ Hibo was guided to a hut that had been constructed over the past few days in the backyard of her family home. Three women were waiting outside the hut. Hibo’s mother and an auntie guided her inside. There was a “straw mattress, dyed red and blue, laying on the ground...the oldest of the women spoke, in a bark, that instantly silenced everyone...‘You,’ she said, pointing to one of the ladies, ‘sit behind her with your legs open.”¹²⁰ Hibo was placed in between the woman’s legs and pushed back “until [Hibo’s] bottom was nudged up against the woman...the woman’s arms clamped down on Hibo’s arms holding her very tightly across her chest...[Hibo] searched for her mother’s face who quickly looked away, staring at the ground, the old woman ‘the cutter’ ...grasped [Hibo’s] clitoris (kintir) and pulled on it until “I thought she was going to pull it clean out of my body.

¹¹⁷ Ibid, p. ix.

¹¹⁸ Wardere, H. (2016). *Cut*. London: Siman & Schuster.

¹¹⁹ Ibid, p.5

¹²⁰ Ibid, pp. 31 - 34

Terror ripped through my body in a shattering wave, as my lungs struggled under the weight of the arms that crushed them.”¹²¹

“From head to toe the pain burned, searing the backs of my eyes and exploding in my brain. I screamed...an almost inhuman scream...a sound I hadn’t known I was capable of making...On and on it went. Finally, the cutter snapped, ‘I can’t concentrate!’ ‘She is making too much noise. What’s wrong with her? Get her to be quiet!’ It was then for the first time that we entered the hut, that my mother spoke. Not in response to her daughter’s pitiful cries, but in collusion with the cutter who was torturing her youngest child. ‘Hibo, stop screaming! The girls will hear you, you will be called a coward. Stop screaming.’ I surrendered to the pain. The sounds that were coming from me now were involuntary, subconscious, a whimpering, a keening that I had no control over.”¹²²

“...When it was over, the cutter had a message for me: ‘You don’t speak of this. You never tell other girls about it.’ And then my mother said: ‘If you talk about it you will look like someone who is not brave enough, people will see you as a coward, and you’ve been very brave.’”¹²³

In 2012 Somalia introduced a new constitution that was supposed to ban female genital mutilation. As of 2016, UNICEF reports that Type III, (infibulation), the type that Wardere was subjected to as a six-year-old, is still prevalent in Somalia and estimates that up to 98% of girls and women there have experienced FGM.

FGM’s persistence in the presence of legislation continues to show that laws in and of themselves are more informational than transformational. Legislators have not created or enabled that which is something fundamentally more powerful than the law, the space in which victims along with their pain and courage in full transparency can appear and not only have their voices and stories witnessed unedited, but where their full-bodied experiences are translated and transformed into laws that are effective in their countries, in their cultures, in their families, in their time.¹²⁴

“An estimated three (3) million girls are at risk of undergoing FGM every year.”¹²⁵ Through large-scale surveys conducted by the World Health Organization, the type of procedure performed as reported by women aged 15-49 years of age, appears to vary considerably by regions within countries with ethnicity being the prevailing factor. The 2016 report indicates that

¹²¹ Ibid, p. 32.

¹²² Ibid, p.p. 31 – 34.

¹²³ Ibid, p. 43.

¹²⁴ Rejali, D. (2009) p. 31. *Torture and Democracy*. Princeton: Princeton University Press.

¹²⁵ World Health Organization. (2018). *Female Genital Mutilation (FGM)*. [online] Available at: <http://www.who.int/reproductivehealth/topics/fgm/prevalence/en/> [Accessed 12 Aug. 2018].

around 90% of female genital mutilation cases include Type I (mainly clitoridectomy), Type II (excision) and Type IV (nicking), with ten (10) percent, over 8 million women and girls, reporting undergoing Type III (infibulation), the most severe form of FGM practiced. Many reports, such as this 2016 report presented by WHO, are based on women self-reporting. In a 2006 study that used “clinical examinations to assess the reliability of self-reported forms of FGM and then compared the reported with both the extent of cutting verified by clinical examination and the corresponding WHO classification (Type), it was found that those who reported to have undergone the equivalent of Type I, had a form extending beyond Type I, (10/23 (43%) girls and 20/35 (57%) women.”¹²⁶ “Of those who said they had undergone Type I, nine girls (39%) and 19 women (54%) had actually undergone WHO Type III (infibulation and excision of part or all of external genitalia.”¹²⁷ The validity of reported forms of FGM, and what “the local terms correspond to in anatomical terms, is an important issue that must be considered in the interpretation of studies based on interviews.”¹²⁸ The study concludes that

“the reliability of reported forms of FGM is low and that there is considerable under-reporting of both the practice and the extent of the procedure; that the self-reporting of different forms is not reliable” and that these facts need to be considered in the interpretation of studies of prevalence “and studies showing a change in practice towards less severe forms.”¹²⁹

To this last point, in a study of Somali immigrants in Sweden the respondents claimed to have “stopped circumcision.” However, “examinations showed that though they had stopped the practice as they ‘used to do it’ in their home country” (Type III), they “had replaced it” with what may correspond to WHO’s, Type I, “clitoridectomy.”¹³⁰ The study cautions that this under- or mis-reporting does not appear to be intentional, it is a lack of knowledge of the female anatomy and a common language used to define the various parts and differences in local practices. If a baby, a child, a young girl or woman does not have an awareness and communicated understanding of what she is born with, anatomically speaking, and is subjected to such practices without having gained that awareness and understanding, it is likely that reporting the results will be inexact.

(P002) Because mind you, they’ve had it done as a baby, or as a child, and nobody has sat them down and explained that they’ve had this done. Most people from West Africa are unaware that they’ve been through it, until they get pregnant. If you’ve had type 3, you may know the

¹²⁶ Elmusharaf, S., Elhadi, N. and Almroth, L. (2006). *Reliability of Self Reported Form of Female Genital Mutilation and WHO Classification: Cross Sectional Study*. [online] BMJ - US National Library of Medicine NIH, pp.BMJ. 2006 July 15; 333(7559): 124. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1502195/>[Accessed 12 Aug. 2018].

¹²⁷ Ibid, p. Results..

¹²⁸ Ibid, p. Introduction.

¹²⁹ Ibid, p. Conclusion

¹³⁰ Ibid, p. Reliability of Reported Form of FGM.

difference, but if you've had type 1 or type 2, you might not have had many serious problems, sexually, so when the issue is raised, they say 'can you examine me, assess me and tell me if I have been through it.' And unfortunately, for some of the women who do not know they have been through it, and you inform them of the type after you assess them, they get really angry. Not at the midwife, but at everything. How come their family or their mother didn't tell them or a doctor that they had seen for a pap smear before. How come nobody said anything. That nobody cares. It is great emotional and psychological pain for some of these women. And then I think, would they have been better not to know than knowing. Because they have their life, and now you've raised this issue and they have to deal with it and it is psychologically painful, it really affects them. You have opened up a can of worms. In my head, I think, oh my God, would it have been better for her to continue her life without knowing. If it were me, I would want to know for myself, definitely, and once you have raised it I would go around asking questions, because I want to know. It is opening a can of worms, but I would want to know.

(P003) *I have an example, I had a patient, a young Nigerian woman who was having a second baby, the first one had been born C-section. She kept failing to attend her appointments, so I went to her home. I went in, sat down, did my talk and examined her. I informed her that she had FGM, Type II, and **everything stopped**. (participant's emphasis) She said to me, 'Sister, are you done?' I said, yes. She got up, picked up the phone and called Nigeria and spoke to her sister and the sister said, 'oh yes, you've had it done.' The patient said, 'when mom comes in, have her call me.' The mother called, and I could hear the mom saying, 'we had to remove that dirty thing between your legs.' All hell broke loose in that house. I had to stay there for hours just to calm her down. She was 26 years old. It was horrible. I felt so bad for her. She said to her mother, 'I can't believe you did this to me. You abused me.' She then said to me 'I am going to talk in the language of my country now because I am going to tell her off and I have to do it in my language because some English words cannot be said in my language.'*

Oppression: silence and silencing.

“The ultimate tragedy is not the oppression and cruelty by the bad people but the silence over that by the good people.”¹³¹

Addressing oppression effectively has the same challenge as creating effective legislation: those addressing it need to have a working relationship with the multiple voices it aims to address. They must bring those multiple voices to legislation; they cannot simply define the injustice; they have to surface and name the victims, the perpetrators, the settings, the plots, the conflicts and the resolutions; they need to understand their relationships and make meaning of them each

¹³¹ King, M. (1963). Chapter 18: Letter from a Birmingham Jail | The Martin Luther King, Jr., Research and Education Institute. [online] Kinginstitute.stanford.edu. Available at: <https://kinginstitute.stanford.edu/chapter-18-letter-birmingham-jail> [Accessed 25 Oct. 2018].

independently and collectively before they can address it with legislation let alone end it. The narratives of the victims of FGM and the voices of the advocates who stand with them to eliminate the practice, are a rich mine of information, declaratives, interrogatives, imperatives and exclamations which can transform a single nugget into meaningful, well-honed proverbial armory. Their voices answer questions that the unfamiliar would not know to ask and identify multiple perpetrators and their accessories that the unfamiliar would not know participated or existed. Their words inform and influence a future for others that they themselves did not have. Their voices are the strongest resistance to silence and silencing. As the researcher, they are the alchemists who transformed my perspective from that of the external other to that of the insider, the corroborator, the sister, the mother, the aunt, the neighbor, 'the witness.' I am not only among them as their witness and advocate, I am them. I was not built for silence nor will I collude in silencing them further. The avoidance of vicarious trauma to others as an ethical principle can also be a mode of silencing that uses the good in a person to make them fearful of offending. As the internet spreads its millions of voices, along with millions of sensitivities and millions of identities it is hard not to offend someone somewhere. This is a perplexing thing about the impact of this research. Can a chorus of voices raise the decibels high enough to be heard among the cacophony of voices too quick to label negatively any form of critical engagement, without accountability, because internet dissemination does not require accountability. Even climate change with extensive and thorough research, supported by significant international lobbies cannot engage with challenges to its findings from dissenters who think it is enough to say 'I do not believe in your research that we need to reduce carbon emissions to below 2% or the future will wipe out millions. We don't need to change.' There is no option but to go on researching, to go on using the systems to effect positive change in the lives of human beings even if, to start with, it is only a few because a few turns into many. It is a hope not an expectation.

(P010) Being from Kenya I am a part of a community that still practices FGM, um, they still do it, it's not as publicized as it was before, but they still do it. Growing up, I remember very well, looking through photo albums, and ... there was a particular album that had so many photos of older women carrying my sister up in the air. I would ask my mom, what is going on, is it her birthday because she was really young I knew it was not her wedding, she wasn't wearing a white dress or anything, and my mom never gave me an answer. When I became older I came to know that it was the celebration for her mutilation. So, what saved me from going through the procedure, was my dad. When my sister went through FGM, my father was not in the country and my mom used to live with my grandmother in the village, and all girls at a certain age go through FGM and my grandmother said there was no way that she could be with a girl in the house who has not gone through the procedure and that all of her friends daughters and granddaughters have gone through it. So, that is my first encounter with FGM. So, I was scared, the horror. It was not something that we sat down and discussed, where your mom tells you FGM is this or that. We never talked about it ever. Ever. (participant's emphasis) ... It just

happens. I think, that for girls who have gone through it, what happens is...the older women will meet and discuss that probably so and so is going to be mutilated and there is going to be a celebration...but it's not that, when it's over, you don't get sat down and told, so you've been mutilated because of this and that, and that. There is no discussion. You just know it's a thing that you have to go through because you're a girl in the community.... you're just told that you're going to become a woman. And for you to become a woman, a proper woman, you're going to be cut.. With the laws in Kenya..., the narrative around it is called female genital mutilation. But, the community, it may be referred to as female circumcision or the Swahili word 'ukeketaji'... When I went to the UK to do my education and my masters, and I went back to my country to visit my family, and to see my grandmother, she said that I probably don't have a husband or children because I wasn't mutilated. It is something of course, that I laugh about, because I understand where she is coming from, but to know that there is still the mentality for you to have a family or children, or to be successful as a woman in terms of being a wife and mother, you have to be mutilated. So, it is a culture that is very deeply entrenched.

(P018) I decided to write about my personal experience as someone who was subjected to the practice, but also talk about the stories of the women that I had talked to, to show that this was something that wasn't associated with uneducated or ignorant people, because that's another stereotype. I worked for a few years in domestic violence and I started learning, started to understand, even more so, that Female Genital Cutting was a form of violence that was a learned behavior and I recognized the similarity between the two, because a lot of times with domestic violence, children who grow up in these situations will grow up to either be perpetrators themselves or go through the cycle and be victims themselves, again. And, I was recognizing that that is exactly what was happening with Female Genital Cutting, that we have it done as children and in various communities we are taught various ways to act and one of them is to keep quiet about it and I know I was told so many times, 'it's a women's issue' and 'we don't talk about it' and there should be 'no questions' and you're just supposed to accept that. And, when you see other people accepting it too, no one's talking about it, it becomes a way of confirming oh I shouldn't question it, I shouldn't talk about it. That's why it continues generation after generation and it takes a lot to break that cycle. Traditions can change. Cultures are not static.

What's in a name? Everything.

How did FGM come into being in the first place?

To date, there is no research that has been able to evidence the exact origin of FGM. This absence of evidence has left plenty of room for a host of sociocultural theories including but not limited to the following:

- It constitutes a rite of passage to womanhood

- Safeguards virginity before marriage; proof of virginity
- Promotes marriageability increasing a girl's chances of finding a husband; virginity
- Ensures chastity, honor and genital purity which are an essential part of the value of the dowry brought to the both the husband and his family by the girl
- Ensures fidelity after marriage
- Prevents rape
- Hygienic reasons such as cleanliness, the reduction of odor
- Aesthetic reasons such as beauty
- Religious requirement
- Source of income for cutters

One of the first written accounts of FGM appears in the work of Strabo, a Greek geographer, philosopher and historian who visited Egypt around 25 B.C.: "One of the customs most zealously observed among the Aegyptians is this, that they rear every child that is born, and they circumcise the males, and excise the females, as is also customary among the Jews."¹³² This statement is footnoted with: "i.e. remove portions of the nymphaea, and sometimes of the clitoris, of the females. The operation is harmless, and analogous to that of circumcision."¹³³ Aetius of Amida, a sixth century BCE Greek physician and a medical writer, also a Christian wrote that the procedure was performed in case the clitoris grew too large or triggered sexual desire when rubbing against clothing.¹³⁴ The Egyptians thought it proper to remove it before it became unattractively large and unseemly, especially at that time when the girls were about to be married. Aëtius wrote a precise description of the ritual in Book 16 of his Sixteen Books on Medicine:

"The surgery is performed in this way: Have the girl sit on a chair while a muscled young man standing behind her places his arms below the girl's thighs. Have him separate and steady her legs and whole body. Standing in front and taking hold of the clitoris with broad-mouthed forceps in his left hand, the surgeon stretches it outward, while with the right hand, he cuts it off at the point next to the pincers of the forceps."¹³⁵

Emmanuel Ebah, a spiritual philosopher, explores in his book *Female Genital Mutilation: A Deadly Degrading Painful Practice*, the history and prevalence of FGM (2016) exactly that, the

¹³² Strabo (2017) loc. 50143. *Geographica*. Amazon Digital Services (Kindle Edition).

¹³³ Ibid, footnote.

¹³⁴ Nyangweso, M. (2014) p. 106. *Female genital cutting in industrialized countries*. Santa Barbara: Praeger.

¹³⁵ Ebah, E. (2016) loc. 94-102. *Female Genital Mutilation (FGM): A Deadly Degrading Painful Practice*. Glasgow, UK: Divine Spark Publications (Kindle Edition).

history of FGM.¹³⁶ Ebah reports that infibulation, the most severe form of FGM, became associated with slavery.

“Female slaves were subjected to the procedure to prevent pregnancy, increasing their value...to both the seller and the buyer...that missionaries in Somalia reported the custom to sew up their females, especially their slaves being young to make them unable for conception, which makes these slaves sell dearer, both for their chastity, and for better confidence which their Masters put in them.”¹³⁷

Ebah also reports that “the English explorer William Browne, wrote in 1799 that the Egyptians practiced excision and that slaves in that country were infibulated to prevent pregnancy,”... “and that historian and social anthropologist Gerry Mackie argues that a practice associated with shameful female slavery came to stand for honor, and finally that female slaves in ancient Rome were subjected to FGM to oppress sexual activity and prevent pregnancy.”¹³⁸ Mackie, currently associate professor of political science at the University of California, San Diego (UCSD), wrote a course paper in graduate school in the 90s “using comparative-historical sociology and game theory to understand the harmful practices of footbinding in China and female genital cutting (FGC) in Africa” and continues to this day researching harmful traditional cultural practices and advocating abandonment.¹³⁹

*(P003) With FGM, as soon as a woman presents as pregnant, we start the conversation. Once the woman is given an appointment, she shows up for the appointment, and if she speaks English and an interpreter is not required, I would say to her ‘why have you come to see me today’ and she may say ‘it’s because of my circumcision’ or she may use her own terms (another name for FGM), a younger person may say FGM, it depends on her own understanding of her situation. As professionals, between ourselves and other advocates, we use the term FGM because that is **what it is to us and the law**, however, when dealing with the patients, we use the words they use, **at first**, (participant’s emphasis) to establish communication and understanding. So, when I know where the woman is from, like if she is Somalian, I would say ‘have you had Gudnin’ and she will laugh and say, ‘what do you know about that’ and the conversation then starts. Not everyone will know what to call it, but you try to figure out what word they use to identify it. You adjust. I say, ‘I am not here to judge you, I am here to help you.’ Depending on their age, if they’re young they will call me ‘Auntie.’ If they are older, they will call me ‘Sister.’ We work on establishing communication, a relationship of trust.*

¹³⁶ Ibid

¹³⁷ Ibid, loc. 89.

¹³⁸ Ibid, loc. 89 – 107.

¹³⁹ Pages.ucsd.edu. (2018). Gerry Mackie. [online] Available at: <http://pages.ucsd.edu/~gmackie/> [Accessed 13 Aug. 2018].

Very often the first piece of information individuals receive about a subject, an object or a person is by what name it is known. Opinions then rapidly form, and those opinions become judgments and judgments accumulate and harden quickly. This seemingly contemporaneous formation of naming is often not based on fact; it is based on a notion or an idea ‘in formation.’ We take information as fact when many times it is just data in the process of formation. The very process of defining something is both contemporaneous and evolutionary. It is formative. With medical classifications, the history and development of the concepts and understanding of illnesses, diseases, injuries, traumas, disorders, etc., show that diagnostic classifications begin as clinical summative assessments that categorize the injury and describe in great detail the cause, anatomical location and severity of an injury or illness and classify the initial, subsequent or sequela treatment, all of which are then used formatively to guide subsequent classification efforts. Medical classifications not only reflect clinical consensus and shape diagnosis and treatment, they also “operate as social framing devices that enable and disable communication, assert and refute authority and are important items for sociological study.”¹⁴⁰

“The International Classification of Diseases (ICD) is the foundation for the Identification of health trends and statistics globally and is the system used by physicians, hospitals and other healthcare providers to classify and code diagnoses, symptoms and procedures recorded in conjunction with medical care throughout the world.”¹⁴¹

The first international classification edition, known as the International List of Causes of Death was adopted by the International Statistical Institute in 1893. The World Health Organization was entrusted with the ICD at its creation in 1948 and remains so to this day. Although many have taken over 100 years to evolve, it is likely, given the pervasive instances and immediacy which technology affords world-wide sharing of knowledge and research; providing a consistent foundation and continuation for the recognition and study of the vast expanse of disease, illness and injury, that the “partitioning, stabilizing and structuring of what had otherwise been disparate and otherwise unorganized,” has been greatly accelerated.¹⁴² In the 21st century, the way that the world names and treats injury and disease has become more temporally dynamic, a contemporaneous analytic and decision-making process that continues to take place over time but also changing during that time. With advances in big data analytics, digitized media archives and computational linguistic analyses, the era of continuous intelligence and communication brought to the world through the pervasiveness of the internet and complementary technology, offers opportunities to contemporaneously quantify the temporal dynamics, the ebb and flow, of

¹⁴⁰ Jutel, A. (2011) p. Abstract. Classification, Disease and Diagnosis. *Perspectives in Biology and Medicine*, [online] 54(Number 2, Spring 2011), pp. 189-205. Available at: http://muse.jhu.edu/article/429125-info_wrap [Accessed 25 Aug. 2018].

¹⁴¹ World Health Organization. (2018). *International Classification of Diseases, 11th Revision (ICD-11)*. [online] Available at: <http://www.who.int/classifications/icd/en/> [Accessed 25 Aug. 2018].

¹⁴² Jutel, A. (2011) p. Abstract. Classification, Disease and Diagnosis. *Perspectives in Biology and Medicine*, [online] 54(Number 2, Spring 2011), pp. 189-205. Available at: http://muse.jhu.edu/article/429125-info_wrap [Accessed 25 Aug. 2018].

medical related terminology and more accurately reflect and qualify a comprehensive diagnosis such as FGM. The many voices of the experiences of the survivors of the practice, combined with the certified expertise of the clinicians who witness the trauma through medical examinations, both inform and define the classifications. For example, Post-Traumatic Stress Disorder (PTSD), one of the health symptoms of FGM, has been associated with veterans and citizens of the military action arena since wars have been fought. However, the “‘disorder’ has only been recognized formally since 1980”¹⁴³ as a clinical diagnostic standard for categorizing a mental health condition that is triggered by a terrifying event, either experiencing it or witnessing it. “The idea that people can develop physical and psychological disorders following an exposure to a traumatic event that caused them fear or horror whether or not there is a physical injury is not new,”¹⁴⁴ but this particular diagnostic standard took a long time to become established because as late as the 19th century “there were few psychiatrists who accepted the notion that fear and horror were sufficient enough to cause a psychological disorder.”¹⁴⁵ During the American civil war, what is recognized as PTSD today, was referred to as “Irritable Heart or Soldier’s Heart”; World War I as “Combat Fatigue”; World War II as “gross stress reaction”; Vietnam War as “Post-Vietnam Syndrome”; other names include “Battle Fatigue and Shell Shock.”¹⁴⁶ Most physicians during these times “rejected any suggestion that an individual’s perception or beliefs about a traumatic event were capable of bringing about the magnitude of change in the functioning of the brain that could result in a psychiatric disorder.”¹⁴⁷

Just like FGM, the stories of the experiences of the survivors, the veterans themselves, played and continue to play a major role in shaping the understanding of trauma-related disorders and how they are classified. The history of the development of the concept of post-traumatic stress “clearly illustrates the value of clinical experience and the detailed observation of individual cases, which frequently contradicts and challenges existing knowledge and provides an important impetus for change.”¹⁴⁸ Also, in parallel to FGM, clinicians and researchers of PTSD, along with survivors and their advocates, continue to debate definitions and diagnostic classifications of trauma-related disorders which have significant impact on the awareness and recognition required for effective diagnosis, treatment, training, education, research, forensics, legislation and funding. A classification is a way of seeing the world at a point in time and the evolving of scientific classifications are the product of collaboration with the patients, victims, survivors and

¹⁴³ Friedman, MD, PhD, M. (2017). *History of PTSD in Veterans: Civil War to DSM-5 - PTSD: National Center for PTSD*. [online] Ptsd.va.gov. Available at: <https://www.ptsd.va.gov/public/ptsd-overview/basics/history-of-ptsd-vets.asp> [Accessed 25 Aug. 2018].

¹⁴⁴ Tehrani, N. (2004) loc. 454. *Workplace Trauma - Concepts, Assessment and Interventions (Kindle)*. Hove, East Sussex: Brunner-Routledge.

¹⁴⁵ Ibid, loc. 450.

¹⁴⁶ Friedman, MD, PhD, M. (2017). *History of PTSD in Veterans: Civil War to DSM-5 - PTSD: National Center for PTSD*. [online] Ptsd.va.gov. Available at: <https://www.ptsd.va.gov/public/ptsd-overview/basics/history-of-ptsd-vets.asp> [Accessed 25 Aug. 2018].

¹⁴⁷ Tehrani, N. (2004) loc. 478. *Workplace Trauma - Concepts, Assessment and Interventions (Kindle)*. Hove, East Sussex: Brunner-Routledge.

¹⁴⁸ Ibid, loc. 611.

their practitioners that only evolves with understanding and meaning making of the phenomena by those who experience and witness it. Also, in parallel to PTSD, many continue to debate the classification or identification of those that have experienced violence, as either ‘victim’ or ‘survivor.’ Many make a conscious decision to use survivor over victim because the word victim has been assigned negative connotations, especially in the United States, that imply helplessness, manipulation, lack of control and weakness or someone who has been duped, cheated or taken advantage of, when in fact it has an etymology that begins in the 1600s and adduces the sense of a person who suffers severely in body or property through cruel or oppressive treatment; a person who is put to death or subjected to torture by another. The pejorative application of the use of victim today shows a dramatic change from its beginnings. Many times, individuals and groups have come to be identified as victims not because of what has happened to them but rather because of who they are seen as by others, a perceived way of their being in the world by another.¹⁴⁹

Etymology forms part of the wider field of historical research and attempts to explain how and why languages develop in the ways that they have.¹⁵⁰ The words we adopt and use, along with their multiple meanings affect how we interpret our own and others’ behaviors, multiple inferential and referential interpretations that evoke both understanding and misunderstanding. My use of victim and survivor in this research is informed by the following: as I stated in the introduction to this work (Chapter 1), I use the words that the participants use, to be true to their voices when referencing their contributions; when I use the word victim outside of the participants contributions it is with the intent to include all of those that have lost their lives to, as well as those who have survived, cruel or oppressive treatment; and second, when I use survivor it is out of respect for those who have done exactly that, survived the experience of violence at the hands of another and continued to function well in the world. Many were victims of the holocaust. Many were survivors like Bruno Bettelheim, Victor Frankl, Primo Levi who went on to teach us about trauma and that civilization is a fragile veneer that needs to be nurtured if it is not to break into a thousand pieces.

Research shows that FGM has been practiced for thousands of years even though the exact origin is unknown; there is evidence that it was practiced in the Egyptian and Somalian slave trades before the eras depicted in both the Bible and the Quran. This research merits further consideration as to the possible origin of FGM, given the numbers, provided by UNICEF, of the overwhelming prevalence of FGM in Egypt and Somalia referenced in the previous chapters. Thousands of years of history and the considerable variations in the rituals and procedures among and between countries and cultures, make it not unexpected or unusual that the underlying meaning of the phenomenon and how it is captured by language is also greatly varied.

¹⁴⁹ Keywords.pitt.edu. (2018). *Keywords Project | Victim*. [online] Available at: https://keywords.pitt.edu/keywords_defined/victim.html [Accessed 25 Oct. 2018].

¹⁵⁰ Durkin, P. (2013) p. 2. *The Oxford guide to etymology*. Oxford: Oxford University Press.

For example, infibulation is sometimes referred to as pharaonic circumcision in parts of Africa: “in Sudan, pharaonic circumcision, along with other pre-Islamic or non-Islamic beliefs and practices, was successfully syncretized into the Sudanese Islamic belief system...allowing many to convert without dramatic change to their cultures.”¹⁵¹ The World Health Organization’s classification of the types of FGM practiced has been widely accepted by the international community, nations, countries, communities, governments, institutions, organizations, clinicians, campaigners, academics, activists and NGOs. However, the terminology used to define the practice and its purpose have become as much of a sociocultural and sociopolitical focus as the practice itself, frequently polarizing the conversation and serving as a detractor to addressing the real violation - the practice itself. There are many non-English terms and non-ICD terms for the practice that are captured in the language of the country and culture of origin, however, in this research I will only address those that are common to the English language. In addition to FGM, the practice is frequently called Female Genital Cutting (FGC) and Female Circumcision (FC). FGM/C (female genital mutilation/cutting) is a common variation that is currently used in literature by UNICEF and the U.S. Department of Health & Human Services. Objections to the term FGM have been raised because the term is seen to confer judgement and condemnation of what is an age-old practice in many communities.

“The use of FGM/C is a hybrid term sometimes used to capture the significance of the term “mutilation” at the policy level and highlight that the practice is a violation of the rights of girls and women, while also recognizing the importance of respectful terminology when speaking and working with the practicing communities.”¹⁵²

The 6th General Assembly of the Inter-African Committee on Traditional Practices was held from the 4th to the 7th of April 2005, “to review the progress and constraints of, and to identify opportunities for strengthening the campaign against harmful traditional practices particularly female genital mutilation.” The issue of terminology was raised as a concern as attempts “to dilute the terminology Female Genital Mutilation (FGM) and replace it with one or more of the following had been observed: Female Circumcision (FC) Female Genital Surgery; Female Genital Alteration; Female Genital Excision; and more recently Female Genital Cutting (FGC).” The committee noted that these changes

“trivialized the nature of female genital mutilation and the suffering of African women and girls...that these changes have been made without consultation and override the consensus reached by African women in the front line of the campaign as well as the voices of millions of African girls and women who suffer in silence...and that in 1990

¹⁵¹ Gruenbaum, E. (2001) p. 44. *The Female Circumcision Controversy: An Anthropological Perspective*. The University of Pennsylvania Press.

¹⁵² Unicef.org. (2013) p. 7. *Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change*. [online] Available at: https://www.unicef.org/cbsc/files/UNICEF_FGM_report_July_2013_Hi_res.pdf [Accessed 20 Sep. 2018].

African women directly at the forefront of the campaign adopted the term FGM at the IAC General Assembly in Addis Ababa, Ethiopia; and that these women took this brave step to confront the issue head on with their practicing communities.”¹⁵³

The participants at the 6th IAC General Assembly documented the following four reasons as the consensus of African women at the forefront of the campaign and then in conclusion, demanded “a halt to this drift towards trivializing the traditional practice by adopting a subtle terminology”:

1. Other terms created confusion in the minds of the people on the nature and gravity of the practice.
2. They recognized that the campaign would be a long-term struggle and the process of changing the mentality and behaviors of African people would be extremely painful.
3. However, they recognized that this pain would be integral to the social change required to free girls and women from this traditional ritual in order to change the mentality of women and empower them to address FGM, which is part of the control of women’s sexuality and reproductive rights.
4. They are aware that African women and men should confront the true nature of FGM. Experience indicates that long-term change only occurs when change agents help communities to go through this painful process. Not to confront the issue is to assist communities to remain in denial of the gravity of FGM, thus resulting in mere transient changes.¹⁵⁴

The General Assembly went on to say that they want the world to know that:

“the terminology FGM was adopted through the process of consultation and consensus between the different African perspectives and opinions on the practice expressed by the African experts that attended the first technical working group meeting held in Geneva in 1995 and gained widespread world-wide currency and acceptance... and while we appreciate the efforts made in response to FGM on the continent and the Diaspora, it is patronizing and belittling to African women and girls to have outsiders define their oppression... **The term FGM is not judgmental. It is instead a medical term that reflects what is done to the genitalia of girls and women. It is a cultural reality. Mutilation is the removal of healthy tissue. The fact that the term makes some**

¹⁵³ DECLARATION: on the Terminology FGM. (2005) p. 1. In: *The sixth General Assembly of the Inter-African Committee on Traditional Practices (IAC)*. [online] Available at: <https://www.taskforcefgm.de/wp-content/uploads/2011/05/Bamako-Declaration.pdf> [Accessed 17 Aug. 2018].

¹⁵⁴ Ibid. p. 1.

people uneasy is not justification for its abandonment.”¹⁵⁵ (bold font is General Assembly emphasis)

The practice of FGM is found among Christians, Jews, Muslims and other denominations and is claimed by many to be a religious act. However, none of the scriptures of any of these monotheistic religions prescribe or even discuss any form of the practice on females, regardless of naming standard used or translation thereof, whether it be, including without limits, clitoridectomy, excision, infibulation, cutting or circumcision. A report issued by Islamic Relief Canada, found that “although FGC pre-dates Islam and is not practiced by the majority of Muslims worldwide, Islamic Relief Canada has learned that there is a large proportion of Muslims (men, women and girls) around the world who believe FGC to be an Islamic imperative or – at the least – not something to be condemned.”¹⁵⁶ It seems that through the years, the harmful cultural practice may have been given a religious halo in an attempt to ensure its prescription and protection similar to the prescription and protection afforded a religious act that is found in some scripture, that of male circumcision. I found an interpretive opinion written by an individual who reports to have two PhD’s on the subject of Interpretation of the Quran, that supports this notion:

“Female circumcision is not part of the established sunnah and the only argument for it is based on some ahad (single narrated) hadiths. Analyzing these hadiths shows that none of them are in fact categorical enough to be used as a reliable evidence while some also suffer from their weak chains of narrators. Therefore, there is no basis in Islam for female circumcision. It seems like a cultural practice (with regard to females) has gradually mixed up with a religious one (with regard to male).”¹⁵⁷

I have grown to understand, through this research, that one of the reasons for the lack of peer-reviewed work on the genesis and evolution of a cultural practice that may have evolved from that required by the enslaver to that prescribed by the divine, a form of taboo around exploring both medical and social issues pertaining to the female genitalia; a historical lack of prioritization for the ‘lesser sex’ in matters of health and the shadow of what can and cannot be made explicit in research that is non-medical in the name of ethical sensitivities which may be forms of self-editing or conflated with research integrity which avoids harming the reader as well as participants. It has been a long road of silence and silencing. The sciences also tend to exclude experiences that are not corroborated by scientific method. This lack of corroborated evidence has to be the most contrived excuse of all. Crimes against children especially rarely happen in

¹⁵⁵ Ibid.

¹⁵⁶ Patel, R. and Roy, K. (2013-2016) p. 5. Female Genital Cutting in Indonesia - A Field Study. *Islamic Relief Canada*. [online] Available at: https://www.islamicreliefcanada.org/wp-content/uploads/2016/04/IRC_FGC_Report.pdf [Accessed 17 Aug. 2018].

¹⁵⁷ Shafti, F. (2015). *Female Circumcision (analysis of the hadiths)*. [online] Exploring Islam: the path of devotion to the truth. Available at: <http://www.exploring-islam.com/female-circumcision-analysis-of-the-hadiths.html> [Accessed 23 Aug. 2018].

public places, rarely happen with an audience as witness or caught on camera, although the pervasive technology of the cell phone camera has radically increased opportunities for such third-party corroboration. Crimes against children happen in closed environments where there is only the perpetrator(s) and the victim(s). It is a fallacious notion to dismiss the value of narrative experience simply because there does not appear to be corroborating evidence. Evidential opportunities appear in multiple forms in the narrative and can be sought and captured when analyzed by those who are truly dedicated to the purpose of understanding. Albert Einstein offered: "...it is not the fruits of scientific research that elevate man and enrich his nature but the urge to understand..."¹⁵⁸ When it comes to child abuse, research shows

“that even though more than 90% of abused children have no abnormal findings on physical examination, the forensic diagnostic aspect of the examination must not be neglected, because the absence of positive findings can also be forensically relevant. In most cases, the diagnosis is based on the statements of the child, obtained through sympathetic and non-suggestive questioning by a qualified expert.”¹⁵⁹

My experience thus far is that the researchers and the victims as participants in research which involves violence, especially of a personal nature, are prevented from presenting explicit details of the behavioral and emotional nature of the act. These prohibitions significantly limit the promise of much research to the degree that truth and speaking truth to power is compromised on the basis of propriety. Research also shows that one of the most challenging ethical dilemmas, which I will discuss further in following chapters, relates to rights of authority over children, specifically parental authority with regards to children. Given the lack of the survivors' voices and lived experiences in qualitative research and publication on harmful ritual practices perpetrated on women and children, I look to not only peer-reviewed research but also to the lived experience narratives of those who inherit and live cultural traditions; those who have chosen to challenge their cultural realities and seek others in the world in similar situations and find a collective voice in the hope of a world that can be improved. This next section turns to another form of silencing or indeed disabling of this movement to change practices which cloak violence against females and female children, whether by males or females, through conflating it with something larger than itself which can consume it for its own ends. Participants, as can be seen from the analysis, found this particular conflation unhelpful and damaging to the case for FGM prevention and eradication not least its use in the context of legal justifications.

¹⁵⁸ Einstein, A. (2011) p. 17. *The World As I See It (e-book)*. Philosophical Library/Open Road.

¹⁵⁹ Herrmann, B., Banaschak, S., Csorba, R., Navratil, F. and Dettmeyer, R. (2014) Section: Dealing with suspected sexual abuse. *Physical Examination in Child Sexual Abuse*. [online] NCBI. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4215093/>[Accessed 1 Oct. 2018].

Disentangling the conflation of FGM and male circumcision

Conflation: “The worst form of inequality is to try to make unequal things equal.”¹⁶⁰

In April 2017, the United States began to prosecute the first Female Genital Mutilation case to be brought to the federal justice system since the passage of the Female Genital Mutilation Act in 1996 making the practice a felony when performed on anyone under the age of 18. The doctor accused of “performing the illegal procedure on as many as 100 girls at a clinic in the state of Michigan, along with two other accomplices, denies the charges.”¹⁶¹ “The doctor was born in America, received her medical degree from Johns Hopkins and worked at Henry Ford Health System which fired her after the arrest and said no cutting had occurred at its facilities.”¹⁶² All three accused are members of the Dawoodi Bohra community, a small sect within the Ismā‘īlī branch of Shia Islam. “Today, there are approximately one million Dawoodi Bohra, the majority of whom reside in India and Pakistan, but there is a significant diaspora residing in parts of the Middle East, East Africa, Europe, North America and the Far East.”¹⁶³ The three accused “belong to the Anjuman-e-Najmi mosque”¹⁶⁴ which issued a statement after the arrests which included “any violation of U.S. law is counter to instructions to our community members and does not reflect the everyday lives of the Dawood Bohras in America.”¹⁶⁵ Defense lawyers have stated “they will argue a freedom of religion defense and that key to their argument is that the procedure that was performed was minor, a nick or scraping rather than an actual cutting”¹⁶⁶ and claims that “the procedures were benign, legal and religious” with the doctor’s lawyer, Shannon Smith, saying “the doctor merely removed mucous membrane from the girls’ genitalia, placed

¹⁶⁰ Peter, L. (2013) loc. 2922. *Peter's Quotations*. HarperCollins Publishers Inc./EPub Edition. This quote is said to be a condensed version, an epigram, of Aristotle’s statement “For example, justice is thought by them to be, and is, equality — not, however, for all, but only for equals. And inequality is thought to be, and is, justice; neither is this for all, but only for unequals,” which is found in Aristotle and Barnes, J. (1995) p. 2031. *The Complete Works of Aristotle - The Revised Oxford Translation*. Princeton: Princeton University Press.

¹⁶¹ Elizabeth, D. (2018). The First Female Genital Mutilation Prosecution in America is a Chilling Reminder It Happens Here, Too. *BUSTLE*. [online] Available at: <https://www.bustle.com/p/the-first-female-genital-mutilation-prosecution-in-america-is-a-chilling-reminder-it-happens-here-too-8058419> [Accessed 16 Aug. 2018].

¹⁶² Belluck, P. (2017). Michigan Case Adds U.S. Dimension to Debate on Genital Mutilation. *The New York Times*. [online] Available at: <https://www.nytimes.com/2017/06/10/health/genital-mutilation-muslim-dawoodi-bohra-michigan-case.html>[Accessed 18 Aug. 2018].

¹⁶³ Tucker, S., Roberts, P., Pierpaoli Jr., P., Zabecki, D. and Zuhur, S. (2008)p. 917. *The Encyclopedia of the Arab-Israeli Conflict*. 1st ed. Santa Barbara, California: ABC-CLIO Inc.

¹⁶⁴ Snell, R. (2017). Dershowitz Joins Genital Mutilation Case Defense Team. *The Detroit News*. [online] Available at: <https://www.detroitnews.com/story/news/local/detroit-city/2017/06/01/dershowitz-genital-mutilation-case/102378354/> [Accessed 16 Aug. 2018].

¹⁶⁵ Belluck, P. (2017). Michigan Case Adds U.S. Dimension to Debate on Genital Mutilation. *The New York Times*. [online] Available at: <https://www.nytimes.com/2017/06/10/health/genital-mutilation-muslim-dawoodi-bohra-michigan-case.html>[Accessed 18 Aug. 2018].

¹⁶⁶ Bach, T. (2017). Michigan FGM Case Could Test Bounds of Religious Liberty. *The Christian Science Monitor*. [online] Available at: <https://www.csmonitor.com/USA/Justice/2017/0727/Michigan-FGM-case-could-test-bounds-of-religious-liberty> [Accessed 16 Aug. 2018].

the material on gauze pads and gave it to their families for burial.”¹⁶⁷ In June 2017, in contrast to these defense team claims, The New York Times reported that “according to a criminal complaint, one of the girls told investigators “that it was a special girls trip for a procedure to get the germs out” and that the medical examination “showed that the girl’s labia minora had been altered or removed, that the clitoral hood was abnormal in appearance and that she had scar tissue and small lacerations.”¹⁶⁸ In a separate criminal complaint another girl said that she “got a shot and it hurt really badly and she screamed and that after the procedure, she could barely walk, and she felt pain all the way down to her ankle.” The medical examiner subsequently reported finding “a small incision in her clitoral hood and a small tear to her labia minora.”¹⁶⁹

(P007) *I’m an OB/GYN, but most of the work I do around FGM is about recasting the discussion of violence against women because I feel like what we’ve done with it is put it into little buckets. There’s domestic violence, there’s trafficking, and there’s prostitution and there’s gang violence but in fact it’s a continuum from birth to death. And, so a lot of the things that I do are, they’re using FGM as an entree but really about recasting that narrative. Some argue, that circumcision of boys is the same thing, when actually it is not, but in an ethical framework, they can be relatable. So, the problem is everyone’s little bit, so this is what’s going to happen in Michigan, the case is going to be decided that it was a type 4, so the argument is that’s ok and then that argument invites a little bit and a little bit, and a little bit, and my little bit is going to be different than your little bit, and what’s worse and what’s not worse. All are harmful. People are going to do what they do. I wish the Michigan case was not about the Bohra, I wish what the doctor had been doing was type 3, it would be so clear, because this is a nightmare of subtlety, and the court of public opinion is not about subtlety. I think that the cutting of women represents the devaluation of women at a really deep level, but I think from the legal perspective there is an argument to be made to say that no minor should have their genitals modified until they decide, if they decide, to do so as an adult. It’s very interesting what’s brewing in Michigan, they could argue there’s no lasting harm. They’re going to argue that in that particular instance, that it was a nick of the clitoral hood a Type 1, they’re not going to talk about the psychological affects and that there isn’t good evidence to say that there is lasting harm.*

“The Dawoodi Bohra community has been practicing the ritual of *Khatna*, female circumcision, also known as Female Genital Cutting (FGC), for centuries, a ritual that many Islamic scholars

¹⁶⁷ Snell, R. (2017). Dershowitz Joins Genital Mutilation Case Defense Team. *The Detroit News*. [online] Available at: <https://www.detroitnews.com/story/news/local/detroit-city/2017/06/01/dershowitz-genital-mutilation-case/102378354/> [Accessed 16 Aug. 2018].

¹⁶⁸ Belluck, P. (2017). Michigan Case Adds U.S. Dimension to Debate on Genital Mutilation. *The New York Times*. [online] Available at: <https://www.nytimes.com/2017/06/10/health/genital-mutilation-muslim-dawoodi-bohra-michigan-case.html> [Accessed 18 Aug. 2018].

¹⁶⁹ Belluck, P. (2017). Michigan Case Adds U.S. Dimension to Debate on Genital Mutilation. *The New York Times*. [online] Available at: <https://www.nytimes.com/2017/06/10/health/genital-mutilation-muslim-dawoodi-bohra-michigan-case.html> [Accessed 18 Aug. 2018].

around the world do not endorse.”¹⁷⁰ In February 2017, Sahiyo, an advocacy collective of South Asian survivors of FGM/C which includes the Dawoodi Bohra community, whose “mission is to empower Dawoodi Bohra and other Asian communities to end Female Genital Cutting and create positive social change through dialogue, education and collaboration based on community involvement,”¹⁷¹ conducted the first-ever international online anonymous survey of Bohra women on the subject of Female Genital Cutting to understand the extent, purpose and impact of Khatna amongst Dawoodi Bohra women. Sahiyo chose to use the term Female Genital Cutting (FGC) as they consider it to be “a compromise between the two warring viewpoints between the users of FGM and users of other terminology to ensure no additional harm is caused to survivors and that FGC is a more neutral, non-blaming term, which still graphically represents the injuries that girls suffer.”¹⁷² The sample survey size was 385 women of the Bohra community over the age of 18. 309 of them indicated that they underwent FGC as children,¹⁷³ with 65% (202) being unsure of what had anatomically occurred to them, answering “I don’t know”; 21% responding that part of their clitoral hood had been removed; 5% reporting that all of their clitoral hood had been removed; another 5% reporting that their clitoral hood and part of their clitoris had been removed; and 3% reporting that their entire clitoris had been removed. One respondent reported that her labia had been cut as well.¹⁷⁴ 23% of the respondents reported undergoing physical health issues immediately after FGC, which included pain, bleeding, and burning during urination with 37% reporting they could not remember if they faced physical health issues.¹⁷⁵ Although only 23% of women reported physical health complications in the objective component of the survey, 98% mentioned experiencing pain in the narrative component of the survey.¹⁷⁶ As to the respondents’ mental state after the practice, the most common emotions reported were: fear (51%), anger (21%), and sadness (15%) with 29% reporting they did not remember what they were feeling following the practice.¹⁷⁷ As to the emotional impact on the respondents’ adult life, about half of the participants responded that the practice had left an emotional impact on their adult life such as feelings of anger; sexual frustration; betrayed, violated and distrust in family; and feeling incomplete and that something is missing.¹⁷⁸ 35% reported that their sex life had been impacted; 87% of which reported adverse effects such as difficulty/inability to reach orgasm; lack of physical stimulation; and discomfort, pain, and low libido.¹⁷⁹ Eight percent reported a positive affect such as heightened physical stimulation. Multiple explanations were

¹⁷⁰ SAHIYO (2017) p. 8. *Understanding Female Genital Cutting in the Dawoodi Bohra Community: An Exploratory Survey*. [online] Available at: https://sahiyo.files.wordpress.com/2017/02/sahiyo_report_final-updatedbymt2.pdf [Accessed 17 Aug. 2018].

¹⁷¹ Ibid, p. 6.

¹⁷² Ibid, p.13.

¹⁷³ Ibid, p.28.

¹⁷⁴ Ibid, p. 39.

¹⁷⁵ Ibid, p.41

¹⁷⁶ Ibid, p. 53

¹⁷⁷ Ibid, p. 42

¹⁷⁸ Ibid, p. 42-43

¹⁷⁹ SAHIYO (2017) p. 55 and 44. *Understanding Female Genital Cutting in the Dawoodi Bohra Community: An Exploratory Survey*. [online] Available at: https://sahiyo.files.wordpress.com/2017/02/sahiyo_report_final-updatedbymt2.pdf [Accessed 17 Aug. 2018].

given by the respondents as to why FGC continued in the community with the top four being: religious purposes (222); to decrease sexual arousal (178); to maintain traditions and customs (161); and, for reasons of physical hygiene and cleanliness (103).¹⁸⁰ Sahiyo's survey found that religion is the reason most often given by respondents that Khatna is practiced in the Dawoodi Bohra community which is reported as key to the argument being made by the defense team on behalf of the accused physician and her two accomplices, however, it does not largely correlate to the practice doing 'little to no harm' as implied in the doctor's attorney's depiction of the process nor its outcome described as 'merely removed mucous membrane.'

The Detroit Free Press reported on June 1, 2017 "Famed constitutional law scholar and attorney Alan Dershowitz has joined the defense team in the nation's first female genital mutilation case in federal court."¹⁸¹ According to the report, Dershowitz is a retired Harvard Law School professor and lawyer who defended celebrity clients in some of the country's highest profile criminal cases, such as O.J. Simpson, Mike Tyson and British socialite Claus von Bulow. June 11, 2017 The New York Times also reported that the Dawat-e-Hadiyah, an organization overseeing smaller Shiite Muslim sects such as those of the Dawoodi Bohra community, hired Alan Dershowitz to help the defense. In a statement made to Breitbart news, Dershowitz calls the Times report "misleading."¹⁸² Excerpts of Dershowitz' statement and explanation for his participation to help the "Dawat-e-Hadiyah" organization as reported by Breitbart news follows:

"So, here's the story. This group rejects female genital mutilation. I agreed to consult with them and to work toward an acceptance of merely a symbolic pin prick, not even of the clitoris, but just of the clitoral hood, which is the equivalent of the foreskin. The idea really is the functional equivalent of what Jews do. If a non-Jewish kid were circumcised at birth, as many are, but didn't have a bris, didn't have a religious circumcision, and he wants to convert to Judaism, or his parents want to convert him to Judaism, he has a little symbolic pin prick, it draws a tiny bit of blood, and that takes the place of a circumcision, and that's what I've proposed."¹⁸³

"If we can get everybody in the world who today practices female genital mutilation, this group does not, every group in the world who practices it, if we can get them all to substitute the symbolic pin prick, which is the equivalent, for example of a 15 year old kid having your ear pierced, which is legal, it causes just about the same amount of harm

¹⁸⁰ Ibid, p.4.

¹⁸¹ Snell, R. (2017). Dershowitz Joins Genital Mutilation Case Defense Team. *The Detroit News*. [online] Available at: <https://www.detroitnews.com/story/news/local/detroit-city/2017/06/01/dershowitz-genital-mutilation-case/102378354/> [Accessed 16 Aug. 2018].

¹⁸² Leahy, M. (2017). Alan Dershowitz: Report He Will Help Defense in Female Genital Mutilation Case 'Fake News by New York Times'. *Breitbart*. [online] Available at: <https://www.breitbart.com/big-government/2017/06/12/alan-dershowitz-report-he-will-help-defense-in-female-genital-mutilation-case-fake-news-by-new-york-times/> [Accessed 18 Aug. 2018].

¹⁸³ Ibid

to have your ears pierced as to have a tiny prick on the labial hood, that to me would be a great accomplishment. It would also help resolve the conflict between religious freedom and the interests of the state in preventing child harm. So that's my role in the case, as a consultant to try and move the world away from female genital mutilation toward a much more benign sterilized pin prick. What I want to do is get the U.S. Government to agree that a sterilized benign symbolic pin prick would not violate the law."¹⁸⁴

Although Dershowitz claims that The New York Times report is misleading, pieces of his explanation can also be interpreted as misleading and certainly in conflict with topical research on Khatna, the admitted practice of the Dawoodi Bohra community who “receives their cannons and principles from the mission and organization known as Dawat-e-Hadiyah,”¹⁸⁵ and the varied severity levels reported by both survivors, those who have actually experienced the practice and live with the consequences, and clinicians, those who have actually examined survivors and have certified knowledge of the female anatomy and the natural state of its many but also similar appearances pre-procedure. As can be seen from the various extracts the confusion and conflation escalated and the factual information available such as that from UNICEF and WHO and members of Muslim communities was not included or even alluded to. R. Ghadially, a Dawoodi Bohra woman and researcher from India wrote an article titled *All for Izzat: The Practice of Female Circumcision among Bohra Muslims* (1991)¹⁸⁶ where she reveals that she was circumcised when very young and that although she does not remember at what age she does remember the incident: “It hurt me bad.”¹⁸⁷ The word “Izzat” translates in English to “honor, reputation, prestige.”¹⁸⁸ She goes on to say that the Bohras practice a type of circumcision called Khatna which the prepuce or the tip of the clitoris is removed and that as she grew up she came to realize that the purpose of the practice is to “discourage masturbation; limit the stimulation of the clitoris; and expose the nerve endings making the area hypersensitive and painful to direct contact and prolonged touch.”¹⁸⁹ Ghadially provides that while a considerable amount of literature is available on the more severe forms of female circumcision such as infibulation, literature on the practice of Khatna as practiced in Asia is “singularly lacking.”¹⁹⁰ It is not uncommon for attorneys that are litigators, and politicians, to purposely divert attention of the

¹⁸⁴ Leahy, M. (2017). Alan Dershowitz: Report He Will Help Defense in Female Genital Mutilation Case 'Fake News by New York Times'. *Breitbart*. [online] Available at: <https://www.breitbart.com/big-government/2017/06/12/alan-dershowitz-report-he-will-help-defense-in-female-genital-mutilation-case-fake-news-by-new-york-times/> [Accessed 18 Aug. 2018].

¹⁸⁵ Dawoodi-bohras.com. (2008). *Dawoodi Bohras - Bohras and Reform*. [online] Available at: http://www.dawoodi-bohras.com/news/73/97/Dawat-e-Hadiyah-England-Act-1993-c-x/d.pdb_detail_article_comment/ [Accessed 19 Aug. 2018].

¹⁸⁶ Ghadially, R. (1991) p. 17. *All for Izzat: The Practice of Female Circumcision among Bohra Muslims*. [PDF] Available at: http://www.manushi-india.org/pdfs_issues/PDF%20files%2066/all_for_izzat.pdf [Accessed 19 Aug. 2018].

¹⁸⁷ Ibid

¹⁸⁸ Oxford Dictionaries | English. (2018). *izzat | Definition of izzat in English by Oxford Dictionaries*. [online] Available at: <https://en.oxforddictionaries.com/definition/izzat> [Accessed 19 Aug. 2018].

¹⁸⁹ Ghadially, R. (1991) p. 17. *All for Izzat: The Practice of Female Circumcision among Bohra Muslims*. [PDF] Available at: http://www.manushi-india.org/pdfs_issues/PDF_files_66/all_for_izzat.pdf [Accessed 19 Aug. 2018].

¹⁹⁰ Ibid

jury and/or the audience from what would otherwise be of primary and great importance, to something else that is immaterial, irrelevant or extraneous. By doing so, the immaterial and irrelevant is catapulted into the limelight, taking center stage and diverting attention from the real issue: the harmful, illegal human rights violation that is practiced on little girls. This tactic is commonly referred to as ‘wag the dog.’ Dershowitz then labeled the article by The New York Times ‘fake news.’

In the narrative provided by participant (P001), Rabbi Philip Lefkowitz was referenced as a religious leader whose writings were equating female circumcision to male circumcision, calling both an expression protected in the United States under the free exercise of religion clause in the Constitution. I followed up on this reference and found that on May 6, 2017, less than a month after the Dawoodi Bohra case in Michigan was publicly announced, The Times of Israel published an article written by retired Rabbi Philip Lefkowitz titled *Khitan and Milah* (2017)¹⁹¹ wherein Lefkowitz, like Dershowitz introduces male circumcision as a correlate to FGM, Milah for males in the Jewish community and Khitan for males in the Muslim community; that Judaism bases Milah upon a commandment in the Torah and that Islam bases it upon various passages in the Hadith. Lefkowitz states that he himself was “involuntarily circumcised” by his parents on his “eighth day of life.”¹⁹² Excerpts pertinent to his position as it relates to this research, follow:

“Why should Jews concern themselves with Islamic circumcision, with Khitan? It behooves us as American Jews who practice the rite of circumcision and who believe in the free exercise of religion citing this American value as protecting our religious practice, to consider what exactly constitutes female circumcision in Islam. For as has happened in Europe, the outlawing of Muslim ritual slaughter, Halal, necessarily brings with it the outlawing of Jewish ritual slaughter Shchitah. In the United Kingdom for example, in attempting to ward off those who would outlaw Shchitah, British Jewry was required to, in some manner, defend Halal.”¹⁹³

Lefkowitz states that Islam supports female circumcision and bases it on the following Hadith: Dawud: Book 41: Hadith 5251, Narrated Umm Atiyyah al-Ansariyyah:

“A woman used to perform circumcision in Medina. The Prophet (peace be upon him) said to her: Do not cut severely as that is better for a woman and more desirable for a husband.”¹⁹⁴

Lefkowitz continues:

¹⁹¹ Lefkowitz, P. (2017). *Khitan and Milah*. [online] Blogs.timesofisrael.com. Available at: <https://blogs.timesofisrael.com/khitan-and-milah/> [Accessed 20 Aug. 2018].

¹⁹² Ibid

¹⁹³ Ibid

¹⁹⁴ Ibid

“In recent months, as a result of a number of American Muslim physicians being charged for performing female circumcision, the issue of this religious rite being performed among the Muslim faithful in the United States has become a major topic in the media. Described as “female genital mutilation” it has been roundly condemned.”¹⁹⁵

“As is stated in federal code “18 U.S. Code § 116, Female Genital Mutilation, any form of Muslim female circumcision upon a minor is forbidden and can result in five years of imprisonment.”¹⁹⁶

Like Dershowitz, Lefkowitz correlates female circumcision, a known practice of FGM, FGM as defined and declared by the World Health Organization and UNICEF (and countless others) as a harmful cultural practice and a human rights violation against girls and women to target for elimination; FGM, where over 42 countries, including the United Kingdom, the United States and at least “half of the countries where the practice is endemic, have introduced legislation forbidding all types; and a further seven countries have incorporated anti-FGM legislation into their constitutions or criminal laws.”¹⁹⁷ (P001) *Lefkowitz correlates FGM to male circumcision which is seen as protecting male circumcision for the Jewish faith by sacrificing little girls to the horror of FGM.* Further, Lefkowitz quotes United States federal code on Female Genital Mutilation as specifically including ‘Muslim female circumcision’ which is a blatant falsehood.

As research already shows, FGM is a cultural practice not specific to any one religion or denomination and is found among Christians, Jews, and Muslims, and United States legislation against FGM nor the specific section of code that Lefkowitz provides, includes reference to any religion, and more importantly, contrary to Lefkowitz statement, it does not reference that of the Muslim faith. Next, Lefkowitz attempts to alarm and rally his audience, saying that American Jews must protect their religious rite of male circumcision by supporting and advocating Muslim female circumcision, using the example of ‘the British’ outlawing the ‘Halal,’ what Lefkowitz refers to as ‘Muslim ritual slaughter,’ and that outlawing Halal necessarily puts ‘Shchitah,’ what Lefkowitz refers to as ‘Jewish ritual slaughter,’ at risk. According to research, the term “Halal is used by non-Muslims almost exclusively to refer to the slaughter and preparation of meat in accordance with Islamic practices when its meaning within Islam is far broader. Halal refers to any action or behavior that is permissible in Islam,”¹⁹⁸ which includes but is certainly not limited to, what types of meat and methods of preparation are acceptable, while the term ‘Haram’ refers to impermissible or unlawful actions. If Lefkowitz were looking to be accurate, ‘Zahiba’ is the

¹⁹⁵ Ibid

¹⁹⁶ Lefkowitz, P. (2017). *Khitan and Milah*. [online] Blogs.timesofisrael.com. Available at: <https://blogs.timesofisrael.com/khitan-and-milah/> [Accessed 20 Aug. 2018].

¹⁹⁷ UNFPA.org. (2018). *Female genital mutilation (FGM) frequently asked questions*. [online] Available at: <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions-banned-by-law> [Accessed 21 Aug. 2018].

¹⁹⁸ The Week - UK News (2018). Why is Halal Meat So Controversial? [online] Available at: <http://www.theweek.co.uk/58447/halal-meat-what-does-it-involve-and-is-it-cruel-to-animals> [Accessed 21 Aug. 2018].

Islamic term that identifies the process that prescribes how animals must be slaughtered in a humane way for consumption and is considered the most appropriate and correct term to use when referring to the Islamic ritual as per the Quran.¹⁹⁹ If Lefkowitz were looking to be accurate, he would report that the ‘Hadith’ he quotes is practiced only by some in the communities of the most significant minority branch of Islam in terms of adherents, the Shī‘ites, of which the Dawoodi Bohras are a sub-sect.^{200 201} If Lefkowitz were looking to be accurate, he would report that a great majority of leaders of Islam such as the highly-ranking Egyptian Muslim institution ‘Dar Al-Ifta Al-Misriyyah’ consider FGM to be ‘Haram’, an impermissible and unlawful practice; that “FGM is religiously forbidden due to its negative impact on physical and mental well-being;” and, the institution urges members of the faith to “reconsider unreliable claims that FGM is a religious necessity based on weak Hadith”; and in the same press release went on to say that: “This act has no religious origin, it only dates back to inherited traditions and customs and the biggest evidence for not being a religious duty for women is that the Prophet Muhammad had not circumcised his own daughters.”²⁰²

In the narrative provided by participant (P007), Mr. Brian Earp, Research Fellow, Oxford Uehiro Center for Practical Ethics, University of Oxford, was referenced as someone whose writings equated female circumcision with male circumcision. I followed up on this reference and found the following article written by Earp, published in a blog of Oxford University dated February 18, 2014, weblink titled Female Genital Mutilation and Male Circumcision: Time to Confront the Double Standard.²⁰³ Following are excerpts where rationalization appears to be tantamount to conflation, not a dissimilar method to that which is found in the preceding articles: (as his somewhat meandering blog is not paginated I have provided guideposts that best refer to the section in which the excerpt is found.)

Earp states that he “believes that FGM is impermissible, and that all children whether female, intersex, or male, should be protected from having parts of their genitals removed unless there is a pressing medical condition” (first paragraph). However, he does not believe that FGM and male circumcision should be separate ethical discourses and notes that “some commentators are loath to accept such a broadly applied ethical principle to discuss FGM in the same breath as male

¹⁹⁹ Difference Between.net (n.d.). Difference Between Zabiha and Halal. [online] Available at: <http://www.differencebetween.net/object/comparisons-of-food-items/difference-between-zabiha-and-halal/> [Accessed 21 Aug. 2018].

²⁰⁰ Cragg, A. (2017) Section: Sectarian Variations. *Hadith | Islam*. [online] Encyclopedia Britannica. Available at: <https://www.britannica.com/topic/Hadith-ref88011> [Accessed 24 Aug. 2018].

²⁰¹ SAHIYO (2017) p. 4. *Understanding Female Genital Cutting in the Dawoodi Bohra Community: An Exploratory Survey*. [online] Available at: https://sahiyo.files.wordpress.com/2017/02/sahiyo_report_final-updatedbymt2.pdf [Accessed 17 Aug. 2018].

²⁰² El-Behary, H. (2018). Female Genital Mutilation is Forbidden in Islam: Dar Al-Ifta. *Egypt Independent*. [online] Available at: <https://www.egyptindependent.com/female-genital-mutilation-is-not-islamic-dar-al-ifta-says/> [Accessed 21 Aug. 2018].

²⁰³ Earp, B. (2014). *FGM and male circumcision: should there be a separate ethical discourse? | Practical Ethics*. [online] Blog.practicaethics.ox.ac.uk. Available at: <http://blog.practicaethics.ox.ac.uk/2014/02/female-genital-mutilation-and-male-circumcision-time-to-confront-the-double-standard/> [Accessed 28 Aug. 2018].

circumcision (and perhaps intersex surgeries), they think, is to trivialize the former and to cause all manner of moral confusion.”(first paragraph) Earp claims that “the term FGM and male circumcision (which presume a strict moral difference between them),” is being abandoned by many scholars who are choosing to use instead the term FGC (female genital cutting), MGC (male genital cutting) and IGC (intersex genital cutting) and that these terms “make no moral claims per se,” and further, that he himself “will use the term FGC from now on.” (Section: What about male circumcision). Following are excerpts of Earp’s challenges that FGM is not different from male circumcision and questions what he calls a “double standard.”

Earp says “...how do we know that FGM...does not confer health benefits? Certainly, the most extreme types of FGC will not contribute to good health on balance, but neither will the spearheads-and-dirty-knives versions of genital cutting on boys...indeed, the vulva has all sorts of warm, moist places where bacteria or viruses could get trapped, such as underneath the clitoral hood, or among the folds of the labia; so, who is to say that removing some of that tissue might not reduce the risk of various diseases...indeed Western societies don’t seem to think that health benefits are particularly relevant to the question of whether we should be cutting off parts of the external genitalia of healthy girls...by contrast a small and insistent group of (mostly American) scientists have taken it upon themselves to promote infant male circumcision, by conducting study after well-funded study to determine just what kinds of health benefits might follow from cutting off parts of the penis. Why is there a double standard here?” (Section: Male circumcision might confer health benefits, whereas FGM [has] no health benefits, and only causes harm.) Earp summarizes his many arguments that equate FGM with male circumcision:

“...if “FGM” is wrong because it involves cutting into the genitals of a vulnerable child, without a medical indication and without consent, thereby exposing the child to surgical risk (without the presence of any disease), and (in some cases) removing a healthy part of her body that she might later wish she could have experienced intact, then male circumcision is equally wrong on those grounds. Female, male, and intersex genital cutting should be done exclusively with a medical indication or with the informed consent of the individual...children of whatever gender should not have healthy parts of their most intimate sexual organs removed, before such a time as they can understand what is at stake in such a surgery and agree to it themselves. It is time to stop the compartmentalization and recognize that there is “1 cause” here: respecting children’s rights and protecting them from harm.”²⁰⁴

Earp’s statements, challenging advocates’ refusal to equate FGM with male circumcision, are all addressed in some way in the literature review of this thesis; by the voices of many survivors; the voices of the communities; the voices of both Western and non-Western internationally

²⁰⁴ Ibid.

recognized human rights and health care institutions and individuals; and the voices of the laws in 42 countries, the majority of which are ‘non-Western voices’ using Earp’s vernacular. Regarding Earp’s commentary about male circumcision statistics compared to those of FGM, and his supporting evidence, and more specifically, included in his declaration above that, “a small and insistent group of (mostly American) scientists have taken it upon themselves to promote infant male circumcision, by conducting study after well-funded study to determine just what kinds of health benefits might follow from cutting off parts of the penis,” I provide the following:

“The circumcision of males is one of the most common surgical procedures in the world. A study published by Population Health Metrics,²⁰⁵ entitled Estimation of country-specific and global prevalence of male circumcision, concludes that 37 – 39% of men globally are circumcised; and that a growing volume of research attests to the medical and public health benefits of male circumcision; and, in response to such research, major health institutions such as the World Health Organization, the Joint United Nations Program on HIV/AIDS (UNAIDS), and the US Centers for Disease Control and Prevention (CDC) have endorsed and promote voluntary medical male circumcision in HIV-1 epidemic settings in which the major route of HIV transmission is through heterosexual intercourse.”²⁰⁶

“Just because something isn't a lie does not mean that it isn't deceptive. A liar knows that he is a liar, but one who speaks mere portions of truth in order to deceive is a craftsman of destruction.”²⁰⁷ The United States Centers for Disease Control and Prevention (CDC) “requested public comment on draft counseling recommendations about elective male circumcision for the prevention of HIV, sexually transmitted infections (STIs), and other health outcomes in the United States. These draft recommendations will undergo a 45- day public comment period and a

²⁰⁵ Population Health Metrics (2018) p. About. *Population Health Metrics is a journal that provides a platform for public health researchers to share their findings with the global community relating to concepts, methods, ethics applications, and results in the measurement of the health of populations: health state measurement and valuation, summary measures of levels of population health, and inequality in population health, descriptive epidemiology at the population level, burden of disease and injury analysis, disease, and risk factor modeling for populations, and comparative assessment of risks to health at population level.* <https://pophealthmetrics.biomedcentral.com/about> (Accessed 31 Aug. 2018)

²⁰⁶ Morris, B., Wamai, R., Henebeng, E., Tobian, A., Klausner, J., Banerjee, J. and Hankins, C. (2016). *Estimation of country-specific and global prevalence of male circumcision.* [ebook] Population Health Metrics. Available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4772313/pdf/12963_2016_Article_73.pdf [Accessed 31 Aug. 2018].

²⁰⁷ Jami, C. (2015) p. 45. *Killosophy*. United States: Criss Jami.

formal external peer review”.²⁰⁸ The CDC also released the Peer Review Plan²⁰⁹ providing guidance on qualifications of peer reviewer’s discipline and expertise as follows:

“Primary Disciplines or Expertise: Urology (adult and pediatric), infectious disease epidemiology, general pediatrics, internal medicine, public health, infant circumcision, prevention, care and treatment of HIV, STD, and viral hepatitis, HIV program planning, HIV/AIDS prevention and care policy.”

Requesting expert opinion on:

1. Whether any recommendations were based on studies that were inappropriate as supporting evidence or were misinterpreted.
2. Whether there are significant oversights, omissions, or inconsistencies that are critical for the intended audience of clinicians.
3. Whether the recommendations for the intended audience of health care providers are justified and appropriate.”²¹⁰

The CDC goes on to state that they will, at a later time, publicly post any comments these experts make.

After an extensive evaluation of the scientific evidence, the United States Centers for Disease Control and Prevention released draft policy recommendation (approximately affirming male circumcision (MC) as an important public health measure. A “61-page literature review”²¹¹ accompanied the following summary:²¹²

“U.S. Centers for Disease Control and Prevention's Summary of Its Draft Male Circumcision Recommendations

²⁰⁸ Cdc.gov. (2014). *Draft CSC Recommendations for Providers Counseling Male Patients and Parents Regarding Male Circumcision and the Prevention of HIV Infection, STIs, and Other Health Outcomes*. [online] Available at: <https://www.cdc.gov/nchhstp/newsroom/docs/factsheets/mc-factsheet-508.pdf> [Accessed 28 Aug. 2018].

²⁰⁹ Cdc.gov. (2014). *CDC Peer Review Plan for "Recommendations for Providers Counseling Male Patients and Parents Regarding Male Circumcision and the Prevention of HIV Infection, STIs and Other Health Outcomes and Background Methods, and Synthesis of Scientific Information Used to Inform Recommendations for Providers Counseling Male Patient and Parents Regarding Male Circumcision and the Prevention of HIV infection, STIs, and other Health Outcomes"*. [online] Available at: <https://www.cdc.gov/nchhstp/newsroom/docs/factsheets/mc-factsheet-508.pdf> [Accessed 28 Aug. 2018].

²¹⁰ Ibid

²¹¹ Regulations.gov. (2015). *Background, Methods, and Synthesis of Scientific Information Used to Inform the "Recommendations for Providers Counseling Male Patients and Parents Regarding Male Circumcision and the Prevention of HIV infection, STIs, and other Health Outcomes."*. [online] Available at: <https://www.regulations.gov/document?D=CDC-2014-0012-0002>[Accessed 28 Aug. 2018].

²¹² Morris, B., Krieger, J. and Klausner, J. (2017). *CDC's Male Circumcision Recommendations Represent a Key Public Health Measure*. 5th ed. [ebook] Global Health: Science and Practice, pp.15 - 27. Available at: <http://www.ghspjournal.org/content/ghsp/5/1/15.full.pdf> [Accessed 26 Aug. 2018].

These recommendations are intended to assist health care providers in the United States who are counseling men and parents of male infants, children and adolescents in decision-making about male circumcision. Such decision-making is made in the context of not only health considerations, but also other social, cultural, ethical, and religious factors. Although data have been accumulating about infant male circumcision for many years, clinical trials conducted between 2005–2010 have demonstrated safety and significant efficacy of voluntary adult male circumcision performed by clinicians for reducing the risk of acquisition of human immunodeficiency virus (HIV) by a male during penile-vaginal sex (“heterosexual sex”). Three randomized clinical trials showed that adult male circumcision reduced HIV infection risk by 50–60% over time. These trials also found that adult circumcision reduced the risk of men acquiring two common sexually transmitted infections (STIs), herpes simplex virus type-2 (HSV–2) and types of human papilloma virus (HPV) that can cause penile and other anogenital cancers, by 30%. Since the release of these trial data, various organizations have updated their recommendations about adult male and infant male circumcision.”²¹³

“Conclusions of the 2012 Circumcision Policy Statement by the American Academy of Pediatrics Task Force on Circumcision

Systematic evaluation of English-language peer-reviewed literature from 1995 through 2010 indicates that preventive health benefits of elective circumcision of male newborns outweigh the risks of the procedure. Benefits include significant reductions in the risk of urinary tract infection in the first year of life and, subsequently, in the risk of heterosexual acquisition of HIV and the transmission of other sexually transmitted infections.

The procedure is well tolerated when performed by trained professionals under sterile conditions with appropriate pain management. Complications are infrequent; most are minor, and severe complications are rare. Male circumcision performed during the newborn period has considerably lower complication rates than when performed later in life.

Although health benefits are not great enough to recommend routine circumcision for all male newborns, the benefits of circumcision are sufficient to justify access to this procedure for families choosing it and to warrant third-party payment for circumcision of male newborns. It is important that clinicians routinely inform parents of the health benefits and risks of male newborn circumcision in an unbiased and accurate manner.

Parents ultimately should decide whether circumcision is in the best interests of their male child. They will need to weigh medical information in the context of their own

²¹³ Ibid

religious, ethical, and cultural beliefs and practices. The medical benefits alone may not outweigh these other considerations for individual families.

Findings from the systematic evaluation are available in the accompanying technical report. The American College of Obstetricians and Gynecologists has endorsed this statement.”²¹⁴

The CDC has a mandate to use the best available evidence to inform the public on interventions for disease prevention. In the case of early infant male circumcision, “there are few public health interventions in which the scientific evidence in favor is now so compelling. Despite this, opponents of male circumcision do not accept the CDC’s position. Two prominent opponents, Mr. Morton Frisch and Mr. Brian Earp, published arguments that led them to conclude that from a scientific and medical perspective, current evidence suggests that circumcision is not an appropriate public health measure for developed countries such as the United States.”²¹⁵ *Global Health: Science and Practice*,²¹⁶ a peer reviewed online journal performed a critical assessment that evaluated the research quality of the Frisch and Earp challenges to the CDC’s position on male circumcision, following are excerpts of the assessment of the Frisch and Earp thesis:²¹⁷

“There were major shortcomings in the criticisms and the research provided by Frisch and Earp which include the following (Conclusion, p. 23): misconstrue pain statistics (Box 3, #5, p. 17); selective citation and misrepresentation of findings; overstate frequency of short term complications; misrepresentation of findings while ignoring data from large high-quality studies (Box 3, #6, p. 17); selectively cite small, outdated, weak studies (Box 3, #7, p. 17); cite a study by Frisch that is one-sided and suffered from confounding and statistical flaws (p. 19); and that, speculation and outdated opinion pieces should be viewed with skepticism (p. 20).”²¹⁸

²¹⁴ Circumcision Policy Statement. (2012). *PEDIATRICS*, [online] 130(3), pp.585-586. American Academy of Pediatrics. Available at: <http://pediatrics.aappublications.org/content/pediatrics/130/3/585.full.pdf>

²¹⁵ *Ibid*, p. 15.

²¹⁶ GHSPJOURNAL.org (2018) p. About. *Global Health: Science and Practice, dedicated to what works in global health programs, is an open access, peer-reviewed online journal aimed to improve health practice, especially in low-and middle-income countries.* Available at <http://www.ghspjournal.org> [Accessed 31 Aug. 2018].

²¹⁷ Morris, B., Krieger, J. and Klausner, J. (2017). *CDC's Male Circumcision Recommendations Represent a Key Public Health Measure.* 5th ed. [ebook] *Global Health: Science and Practice*, pp.15 - 27. Available at: <http://www.ghspjournal.org/content/ghsp/5/1/15.full.pdf> [Accessed 26 Aug. 2018].

²¹⁸ *Ibid*

A question of Ethics

Earp is a research fellow at an illustrious institution, Oxford University, and on the faculty as a research fellow at its Uehiro Institute of Practical Ethics.

“Ethics is a body of principles used to decide what behaviors are right, good and proper. Such principles do not always dictate a single moral course of action but provide a means of evaluating and deciding among competing options. Ethics are about putting principles in action.”²¹⁹

An example of this, from the United States perspective, is the principles articulated in the Constitution of the United States. The Constitution is a set of principles, a code of ethics that encompasses the nation's philosophy of beliefs and behaviors as promulgated by its people. Legislation is the enactment of laws that recognize and support these principles in action or inaction, the purpose of the principle in practice so to speak. Laws are the code of conduct that regulate, authorize, outlaw, sanction, grant or declare these principles to govern the behaviors of the people of and in the United States, both the behaviors between the government and the people, and the behaviors between the people themselves as individuals and each other. Complementary to ethics but applicable to an individual's code of ethics concerning personal behavior, are morals. An individual's morality is their personal set of principles, their own code of conduct for their personal behavior which oftentimes is also attached to generally accepted standards of behavior of their culture or greater society in the time in which they live. This cultural or societal effect on an individual's morality is similar to Hegel's concept on the development of freedom as an individual, that it is informed by the times in which we each live. Ethics, laws and morals all relate to right and wrong conduct however are different normative concepts that relate to an evaluative standard. While ethics and morals are sometimes used interchangeably, they are different:

“Ethics is the rules for deciding proper conduct. While not absolutely timeless, ethical principles change very little though the ages. Morality is the standards for behavior that exist at some point in time. Compared to ethics, morality undergoes changes frequently. Compared with ethics, morality is more like a snapshot taken of something moving. Since the principles of ethics are more fundamental and stable, ethics is bigger than morality. Ethics is able to call morality - the existing standards for conduct - into question, and cause morality to change. As an example, consider slavery. Once it was considered moral to own slaves. Over time, ethics called the morality of slavery into question and the eventual result was that slavery was no longer considered moral.”²²⁰

²¹⁹ Desnoyers, G. (n.d.). *Ethics and Morality*. [online] coursehero.com. Available at: <https://www.coursehero.com/file/8060690/Ethics-and-Morality/> [Accessed 1 Sep. 2018].

²²⁰ Ibid.

Similar to nations, many professions and institutions have a code of ethics that they promulgate to assist their members and or employees in understanding the difference between right and wrong and in applying that understanding to their decisions and behaviors when representing their profession or institution; role-specific criteria for responsible behavior guided by that of an institution's and or profession's ethics committee, commonly referred to as an institutional review board, ethical review board, or research ethics board to name a few. As an example, one of the tenets of a research ethics board is to assure that appropriate steps are taken to protect the rights of humans participating as subjects in a research study. Researchers who study vulnerable populations such as children, have special responsibilities in terms of protecting human subjects.

However, there may not be institutionally promulgated steps that securely assure the rights and welfare of vicarious participants, such as those in the case of an argument whose foundation is the conflation of FGM and male circumcision, the very foundation upon which the arguments that Dershowitz, Lefkowitz and Earp stand, the vicarious participants are observably the subjects of FGM, subjects of manifest social and political inequality, subjects who are the survivors of human rights violations, and subjects, babies and little girls, who are predictably the culturally projected targets of imminent harm. Since ethics are the principles that guide professions and researchers in doing the right thing, a commitment to using the best evidence to support decision-making is also an ethical commitment, a value in a code of conduct. Since many professional roles include advocacy, the importance of ethics and objective evidence to guide advocacy is increasingly being recognized. Advocates and decision makers must engage objectively in the analysis and quality of data, its appropriateness, timeliness, usefulness, reliability and validity in the evidence building process. I will frame the act of conflation in the above concept of ethics and objectivity in advocacy.

Although recent years have seen notable discussion and progress on issues of gender and human rights in research, advocacy and legislation, violence against women continues at an alarming rate. Gender-based violence continues in the home, the community, the workplace and countless other areas. Traditional gender-based human rights violations, with its focus on the state, has proven inadequate in dealing with such non-state actors as culture, community and individuals. Ethics (rules of conduct) and objectivity in empirical research are essential for generating knowledge about this inadequacy, however intrusion of the values of the researcher's and the participants' values, and even the research funder's values, is an inherent risk. A foundational difference between male and female manifests bias and discrimination in the sciences and scientists.

FGM is a complex multifaceted practice, a gender-based human rights violation deeply rooted in a strong cultural and social framework, that becomes even more complex as diasporas of peoples who practice FGM develop and grow in non-practicing communities and nations. Boulton et al,

in their work *Embracing Complexity: Strategic Perspectives for an Age of Turbulence* (2015)²²¹ write about complexity theory and challenge the assumption that the world is “mechanical, predictable and controllable, a worldview that is often implied in modern science.”²²² They focus on the importance of the “complexity worldview” and how it can help us navigate our world as it is, not as we believe it to be or want it to be; that complexity “is a middle ground theory between saying we know everything and we know nothing.”²²³

“It is tempting to see complexity science as a source of new and possibly more complicated tools for the toolkit, but still to want them to fit within our existing, familiar approach to defining and solving the problem as we see it. But maybe the issue is less to do with tools and more to do with perspective. Maybe we need to add a large ladder and 360-degree binoculars to our kit so we can take a wider view and reframe the problem. Then we may use many of the same tools, but in different ways, with different aims.”²²⁴

They propose a multi-perspective approach, the “interplay between current patterns of relationships/structure/form, which can be expressed via mathematical equations, and the role of variation, chance and randomness between science and history;”²²⁵ and that the core of complexity thinking is one of “ontology,”²²⁶ that complexity is

“not merely a methodology, or a model, it is the reality of the living world; interconnected, uncertain, affected by particular sequences of events, as well as constrained by existing, relatively stable features. A look at history or at the journey of our own lives is evidence enough, but, on the other hand, nor is the future random. Often the past is a good predictor of the future.”²²⁷

Earlier I posited that the first piece of information individuals ‘receive’ about a subject, an object or a person is its name. This implies that points of data enter our minds from a source that is outside of our physical body and the data is then processed through the act of thinking, an action of our minds which uses information already there. Something external instigates and informs the internal process of the formation of thought. Boulton et al’s reference to ‘complex thinking as an ontology’ is using a function to name the existence of an entity; an entity in context to an action that can only be seen when actualized by another entity; an entity whose substance is

²²¹Boulton, J., Allen, P. and Bowman, C. (2015). *Embracing Complexity (Kindle edition)*. New York: Oxford University Press.

²²² Campbell, H. (2018). The Complexity Worldview with Jean Boulton. [Blog] *Human Current*. Available at: <http://www.human-current.com/blog/2018/2/16/the-complexity-worldview-with-jean-boulton>[Accessed 17 Sep. 2018].

²²³ Ibid, interview.

²²⁴ Boulton, J., Allen, P. and Bowman, C. (2015) p. 5. *Embracing Complexity (Kindle edition)*. New York: Oxford University Press.

²²⁵ Ibid, p. 4.

²²⁶ Ibid, p. 27.

²²⁷ Ibid, p. 28.

action imbedded in an entity of substance; an entity that requires another entity to exist. This is similar to how some researchers interpret Spinoza's claim that a substance exists of itself. "A substance is a thing that so exists that it needs no other thing in order to exist"²²⁸ and "by substance I understand that which is in itself and is conceived through itself; that is, that whose conception does not involve the conception of another thing."²²⁹ "There are those things, namely substances, that do not exist in anything else but are ontologically self-supporting; and there are those things, namely modes or modifications...that exist in, or inhere in, something, namely substances."²³⁰ Except Boulton et al's is an ontology of action, not of substance, what Heidegger may have referred to as ontical rather than ontological. Ontology is the philosophical study of 'being' and the many concepts that directly relate to the existence and becoming of 'beings.' Ontology, like metaphysics, also deals with questions concerning what types of entities exist primarily and how different kinds are related to one another; how they may be grouped within a hierarchy of similarities and differences. "Heidegger asks what character being must have if human consciousness is to be what it is."²³¹

Humans impose order in both their sciences and societies through classification, by clustering together things by names, both by similarities and differences, what they share and what they do not share, by what they have and by what they lack. The symbol '#' and or the word 'hashtag' has become an integral part of social media that is used on the internet to label, group and sort content across innumerable websites. Classifications, or methods of classifications, are not based on or determined by nature, they are a construction of each of our ontologies, who we each are in both our beginning and our becoming and each our perspectives that are influenced by and received from the external others and the times in which we and they develop and live. We and they, us and them, ours and theirs are examples of pronoun classifications to refer to 'people in general' however these pronouns are also used to classify 'referential otherness: peoples in particular.' Societies use pronouns both 'in general' and 'in particular' to identify, and group individuals into social categories of inclusiveness or separateness by the proximity of each individual to the socially normative identity perceived as valued by each society, such as ethnic identity, race identity, gender identity, economic identity, cultural identities, religious identities, political identities, class identity, etc.

Normality and who is valued as normal is defined in different ways according to the time and culture in which societies develop and evolve, by the developers and or rulers organizing principles of classification. Normality not only includes how people look and how they are seen

²²⁸ Cook, J. (2007) p.20. *Spinoza's 'Ethics' (Kindle Edition)*. London: Bloomsbury.

²²⁹ Spinoza, B. (1992) p. 267. *Ethics: Treatise on The Emendation of the Intellect and Selected Letters*. 2nd ed. Indianapolis: Hackett Publishing Company, Inc.

²³⁰ Viljanen, V. (2009) p. 59. *Spinoza's Ontology*. In O. Koistinen (Ed), the Cambridge Companion to Spinoza's Ethics (Cambridge Companions to Philosophy, pp. 56-78). Cambridge University Press.

²³¹ Bunnin, N. and Yu, J. (2009) p. 491. *The Blackwell dictionary of Western philosophy*. Malden, (MA): Wiley-Blackwell.

but also how their behavior is perceived and judged. These scientific and social classifications shape our thoughts, perceptions, behaviors and judgements about who we think we are, how we want to be seen, perceived and judged by others, and the groups to which we belong. Heidegger might say that models of classifications are created by the ‘theyselves’ of each of our beings. Regardless of how you describe it and what you name it, classifications are man-made. Complex thinking as an ontology is a concept that has implications for the role and limitations of science’s claims to an objectivity that is uninfluenced by the scientist’s subjective perspective and intentions. “One cannot have a concept of subjectivity without a concept of objectivity, or an intersubjective perspective that does not include some agreed-upon concept of objectivity.”²³² Objectivity is relational in that subjectivity determines objectivity. The concept of complex thinking by its ontological nature, or even its ontical nature, conflates subjectivity and objectivity placing it at the center of any hypothesis in formation; and, places it in the scientists and their research. Both subjectivity and the concept of objectivity begin in the thoughts and perspectives of the beholder. Research is the testing of hypotheses and new hypotheses in the process of formation, the forming and analyzing of which requires the cooperation of “both subjective and objective thought and observation.”²³³

More specifically to this inquiry, how the concept of complex thinking as an ontology in the scientist presupposes precedence of the conflation of equality and inequality in socio-cultural behaviors such as that of FGM and male circumcision.

I will present a summary example of attributes of a scientist’s belief system taking formation in a conceptual analysis that became the branch of science concerned with taxonomy and the classification of defining and naming groups of biological organisms on the basis of shared characteristics. “In 1758 in the tenth edition of his *Systema naturae*, Carolus Linnaeus created the term Mammalia (mammals) in response to the question of humans’ place in nature, a taxon that united humans and animals.”²³⁴ Linnaeus, a Swedish naturalist and physician, is regarded as the founder of modern taxonomy. “He was the first to frame principles for defining natural genera and species (naming animals and plants), to create a uniform system for naming them.”²³⁵ Mammalia meaning ‘the breast’ from the Latin word ‘mamma,’ “was chosen to distinguish the class of animals embracing humans, apes, ungulates, sloths, sea cows, elephants, bats and all other organisms with hair, three ear bones, and a four-chambered heart.”²³⁶ In the same volume

²³² Smith, H. (1999). *Subjectivity and Objectivity in Analytic Listening*. - PubMed - NCBI. [online] Ncbi.nlm.nih.gov. Available at: <https://www.ncbi.nlm.nih.gov/pubmed/10422050> [Accessed 7 Oct. 2018].

²³³ Ibid.

²³⁴ Schiebinger, L. (1993) p. 393. Why Mammals are Called Mammals: Gender Politics in Eighteenth-Century Natural History. *The American Historical Review*, [online] 98(2). Available at: https://www.jstor.org/stable/pdf/2166840?seq=1-page_scan_tab_contents

²³⁵ Müller-Wille, S. (2018). *Carolus Linnaeus | Swedish Botanist*. [online] Encyclopedia Britannica. Available at: <https://www.britannica.com/biography/Carolus-Linnaeus> [Accessed 3 Sep. 2018].

²³⁶ McElhinny, T. (2006). *A Mammalian Lexicon*. [online] Msu.edu. Available at: <http://msu.edu/~mcelhinn/zoology/mammalwords.htm> [Accessed 26 Oct. 2018].

of classifications that Linnaeus released ‘Mammalia,’ he also introduced ‘Homo sapiens:’ “Homo sapiens translates in English “to man of wisdom and is used to distinguish humans from other primates.”²³⁷ From this historical point of view, the term sapiens is used to distinguish man’s ability to reason, thereby separating man from animals and proclaiming man’s uniqueness. “Thus, within Linnaean terminology, a female characteristic (the lactating mamma) ties humans to animals, while a traditionally male characteristic (reason) marks out his separation from animals.”²³⁸

The etymology of the term Mammalia clearly denotes a function that is a specific trait of females and already carried great meaning and content by itself, admittedly so by Linnaeus, which drove his selection of it. Today, there exist at least seven “known physical characteristics which are confined to the Mammalia.”²³⁹ At least three of these seven were known to Linnaeus in 1758, so, why did Linnaeus base all of his other taxonomical groupings on shared physical characteristics yet chose to call humans ‘Mammalia,’ a classification based on the behavioral characteristics of an anatomical feature that is only rarely functional in half of species, that of the female? Linnaeus joined many other physicians in the eighteenth century who authored writings that espoused the advantages and necessity of women breastfeeding their own children. and discounted the practice of wet nursing. “There is overwhelming literary evidence for the centrality of representations of motherhood to eighteenth-century English culture as a newly elaborated social and sexual identity for women.”²⁴⁰ This particular conflation of nature and science came at a time when the “Enlightenment was an intellectual”²⁴¹ movement which advocated freedom, democracy and reason as the aspirational values of society, and embraced rationalism as deductive reasoning, versus traditional religious or sensory experiences as the sources of knowledge and justification; and, at a time where free rational inquiry embraced a Newtonian worldview that not only ushered in the separation of church and state but also the separation of church and mankind. However, not womankind. Gender roles in the Eighteenth

²³⁷ Schiebinger, L. (1993) p. 393. *Why Mammals are Called Mammals: Gender Politics in Eighteenth-Century Natural History*. *The American Historical Review*, [online] 98(2), p.382 – 411.

²³⁸ Schiebinger, L. (1993) p. 394. *Why Mammals are Called Mammals: Gender Politics in Eighteenth-Century Natural History*. *The American Historical Review*, [online] 98(2), p.382 – 411.

²³⁹ Kermack, D. and Kermack, K. (1984) p. vii. *The Evolution of Mammalian Characters*. Boston, MA: Springer US, pp.DOI 10.1007/978-1-4684-7817-4. These include: (1) a jaw articulation formed by the squamosal and the dentary; (2) a chain of three bones, malleus, incus and stapes connecting the tympanic membrane to the inner ear; (3) the presence of hair or fur; (4) the presence of milk-glands in the female; (5) the left aortic arch is the systemic arch; (6) the phalangeal formula in both manus and pes; (7) some of the teeth have more than one root. Of these characters (1) or (2) are sufficient by themselves to define a mammal; characters (6) and (7) are known to have been already in existence in some of the mammal-like reptiles - the ancestors of the mammals.

²⁴⁰ Perry, R. (1991). Colonizing the Breast: Sexuality and Maternity in Eighteenth-Century England. *Journal of the History of Sexuality*, [online] 2(2), Special Issue, Part 1: The State, Society, and the Regulation of Sexuality in Modern Europe), pp.pp.204-234. Available at: https://www.jstor.org/stable/3704034?seq=1 - page_scan_tab_contents [Accessed 2 Oct. 2018].

²⁴¹ Crehan, K. (2016) p.26. *Gramsci's Common Sense*. Durham: Duke University Press. Reference to Gramsci’s definition of intellectuals as *not simply those who think, or think in a particular way, but those whose thoughts and pronouncements are considered to have a certain weight and authority*.

Century were influenced by classical thought and religious ideology, and contemporary science and medicine wherein men and women were thought to possess fundamentally different qualities and virtues specific to the differences in both the structure and function of their anatomies. “Men were thought to be the strong, intelligent, courageous and determined sex; prone to violence, obstinacy, and selfishness. Women were thought to be the modest, compassionate and pious sex; prone to emotions, excessive passion, lust, shrewishness and laziness.”²⁴² Linnaeus’ selection of Mammalia used the ‘new’ process of philosophical and scientific reason to rationalize a taxonomy that demonstrated an unchanging traditional order albeit new nomenclature, inherent in Biblical creation including his supporting thesis that reproduction and nurturance of the species is the natural nature and responsibility of women. And further, Linnaeus used the ‘new’ process to rationalize his selection of Homo sapiens to ‘separate’ man, not woman, from animal through man’s natural nature of intelligence and determination, through his ability to reason. New scientific language and rationalized reasoning, a new façade for historic and existing beliefs, concealed and ‘stood-in’ for deeply entrenched cultural discriminations, the sociopolitical consequences of which served up women and their lactating breasts to the whole of civilization as national resources relegated to biological production plants for reproducing and nurturing the species. Mary Wollstonecraft wrote:

“...such deeply rooted prejudices have clouded reason, and such spurious qualities have assumed the name of virtues, that it is necessary to pursue the course of reason as it has been perplexed and involved in error, by various adventitious circumstances, comparing the simple axiom with casual deviations. Men in general, seem to employ their reason to justify prejudices, which they have imbibed, they can scarcely trace how, rather than to root them out. The mind must be strong that resolutely forms its own principles; for a kind of intellectual cowardice prevails which makes many shrink from the task, or only do it by halves. Yet the imperfect conclusions thus drawn, are frequently very plausible, because they are built on partial experience, though narrow views.”²⁴³

The power of language

Why was Linnaeus’ concept of taxonomy so broadly accepted, across both the sciences and societies, both the intellectuals and the every-day man of the Eighteenth Century, and even with many in this century? The “unadorned rusticity” of Linnaean science contributed to its initial and

²⁴² Emsley, C., Hitchcock, T. and Shoemaker, R. (2018). *Historical Background - Gender in the Proceedings - Central Criminal Court*. [online] Oldbaileyonline.org. Available at: <https://www.oldbaileyonline.org/static/Gender.jsp - genderroles> [Accessed 6 Oct. 2018].

²⁴³ Wollstonecraft, M. (2013) loc. 1470. *The Complete Works of Mary Wollstonecraft (Kindle Edition)*. Amazon Digital Services. Wollstonecraft 1759–1797, was an English writer, philosopher, and advocate of women’s rights and argued that women are not naturally inferior to men, but appear to be only because they lack education. Wollstonecraft is best known for *A Vindication of the Rights of Woman* (1792). Her daughter, Mary W. Godwin became an accomplished writer herself, known as Mary Shelley, whose best-known work is *Frankenstein*.

later success: what appealed to many was that Linnaeus had constructed his taxonomy in “traditionally Lutheran terms with no need of scientific mediators.”²⁴⁴ Linnaeus “used old-fashioned terms for his scientific vocation; his science too was markedly antiquated.”²⁴⁵ Linnaeus framed his work in a language and perspective that was familiar, widely known and accepted. Linnaeus’ rationalization spoke the language of the masses, the scientists, the intellectuals and many of the every-day people that comprise societies. People recognized themselves, their own learned perspectives in his work, which validated the ‘theyselves’ of their time. However, many researchers today find that both the historic and current taxonomic system comprises, to a great degree, “subjective and arbitrary labels;”²⁴⁶ a construction of history in formation reflecting specific “contexts, conflicts, and circumstances” that became fossilized in terms and narratives relative to the culture of their times; and, that much work needs to be done to modernize terms as thinking evolves “to identify groups as an information storage and retrieval system the function of which is merely one of indexation of the taxonomic information and carry no meaning or content by themselves.”²⁴⁷ This taxonomic example belies the fundamental notion of scientific objectivity as one exempt from subjectivity, and the evidence of the nature of equality claimed by intellectuals in the conflation of male and female biological and sociological norms and practices; that the times in which the scientist lives and familiar perspectives on the roles of men and women both inform and influence research in formation. That in the end, scientific objectivity, although aspirational, may not be achievable because the claims of science, therefore the claims of its scientists, prove to be inextricably bound with the perspective of the scientist and when cascaded to and translated by other scientists and societies, through each their own perspectives, all of which are developed within each their existing and familiar frameworks of lived times, can and has resulted in socio-political/cultural behaviors that sponsor, inculcate and promote hegemony, and ground the traditionally ruled in existing oppression and discrimination.

“Scientific objectivity is a critical characteristic of scientific claims, methods and results. It expresses the idea that the claims, methods and results of science are not, or should not be influenced by particular perspectives, value commitments, community bias or political or personal interests.”²⁴⁸

In order to understand human beings and their experiences, or a particular segment of behavior under study, a sociologist or anthropologist uses scientific rules, methodology, statistical techniques, terminology, theory and language as the means to study phenomenon within a

²⁴⁴ Koerner, L. (2001) loc. 341. *Linnaeus*. Cambridge (MA): Harvard University Press.

²⁴⁵ *Ibid*, loc. 349.

²⁴⁶ Dubois, A. (2011) p. 7. *The International Code of Zoological Nomenclature - The Code must be drastically improved*. [ebook] Auckland, New Zealand: Magnolia Press, pp.1-104. Available at: <https://biotaxa.org/Bionomina/article/download/163/255> [Accessed 2 Oct. 2018].

²⁴⁷ *Ibid*, p. 31.

²⁴⁸ Plato.stanford.edu. (2014). *Scientific Objectivity (Stanford Encyclopedia of Philosophy)*. [online] Available at: <https://plato.stanford.edu/entries/scientific-objectivity/> [Accessed 3 Sep. 2018].

defined frame of reference. Language may be the most critical of all of these means. Anyone who examines a random sample of the copious literature on language and its use in science will find that

“use of the English language in scientific research papers has become more and more prevalent. According to *Why English Matters* (2018) 98% of scientific articles published today are in English.”²⁴⁹

“English is considered a global language with approximately 400 million native speakers. Not only are there this amount of native speakers, but over a million more speak the language as a second or foreign language. It is due to this that English is now considered the language of science.”²⁵⁰

So, the language that one speaks matters in science but also the naming standards, the agreed upon and accepted system of the use of words and classifications used to provide a comprehensive understanding and meaningful use. When scientists become aware of the practical applicability and consequences of their findings, they leave their man-made objective frame of reference and move into a realm of values, beliefs and ideas that are shared with and created by and through others: society and culture. To contrast and compare the natural sciences with the social sciences; in the first, the researcher when dealing with an objectified realm may need to distance him/herself from the phenomena to achieve objectivity; in the second, when research involves interpreting and translating the experiences of human beings who have intentional, established states of being, attributes they share with the researcher such as established values, morals, principles, beliefs or lack thereof in things religious or spiritual in nature, and the ability to exercise judgement, the researcher must be up close to interpret how the participants themselves conceive, understand and make meaning of their thoughts, actions and beliefs.

So what has this got to do with FGM and safeguarding children?

Considering the concept that objectivity is context dependent, perhaps in regard to research on the experience of humans, such as the survivors and communities that practice FGM, the burden or standard of proof that a researcher must meet to support a statement or a conclusion of scientific inquiry, is an objective control in context. In the context of reality, the survivors of FGM experience their body as belonging not to them but to the culture and community that practices FGM, with both their role in the community and their bodies becoming part of an objectified realm. This objectified realm is hidden by what Berger refers to as the “hidden fabric

²⁴⁹ Harrowhouse.com. (2018). *The Language of Science*. [online] Available at: https://harrowhouse.com/language_of_science.html [Accessed 17 Sep. 2018].

²⁵⁰ Ibid.

of an edifice, the outside façade of which hides that fabric from the common view.”²⁵¹ When FGM is practiced in the diaspora, without the façade of the larger home culture and community, the objectified realm comes into view bringing a transparency to motives and forces of a cultural practice that could not have been or may not have been clearly seen or understood in terms of the traditional interpretations of the existing social context and reality. The objectified realm is rendered invisible by the thousands of years of the imposed socio and religiopolitical façade, perhaps even a foundation that was cemented by the slave trade purveyors and masters that evolved into the everyday reality for girls and women of the communities that inherited the practice.

This objectified realm is not one of equality as is proffered by the likes of Dershowitz, Lefkowitz, Earp and many others, it is one of oppression and discrimination. When teaching or publishing under the badges of higher education or belief systems, such as that of an attorney, clergyman, and researcher, employing one’s recognized profession, academic or religious credentials so to speak, the propagation of knowledge and the words that are chosen to communicate that knowledge should be especially encumbered by a ‘burden of proof’ or, at the very least, a disclaimer of the absence thereof. To coin the popular aphorism ‘the absence of evidence is not evidence of absence,’ or the words of “one of the greatest physicists, Richard Feynman, on what being a scientist is all about: I have approximate answers and possible beliefs in different degrees of certainty about different things, but I’m not absolutely sure of anything.”²⁵² When it comes to human nature, the reality in being the evidence and living it, may be, or perhaps, should be, all the evidence that is needed. “Whilst we should work as best we can to use evidence and information to inform our decisions, sometimes the information which captures the past quite well is of limited use in illuminating the future. The world is complex and acting congruently with that complexity can be simpler than trying to control a machine that does not exist.”²⁵³ Equality is a machine that does not exist, it is an idea rooted in inequality; an idea that has been given a mask of credibility in society and culture by the sciences. The importance of evidence and credibility and the artful but inaccurate use of science and research is not only about accuracy and reliability, it is about practitioners, educators and advocates depending on various research sources to support them in articulating human rights violations and identifying appropriate persuasion strategies to work towards both their prevention and their eradication through the values enshrined in human rights. History consistently offers examples of voices being silenced because powerful interests killed off movements not always through brutal measures but through eclipsing them through conflation with larger interest groups: history also has demonstrations of larger groups pioneering change which have embraced the notion of all for one and one for all: for example the human rights movement did not start with one major cause

²⁵¹ Berger, P. (2011) p. 29. *Invitation to Sociology: A Humanistic Perspective*. 1st ed. Open Road Media.

²⁵² Higgins, C. (2009). *Richard Feynman: "I Can Live With Doubt"*. [online] Mentalfloss.com. Available at: <http://mentalfloss.com/article/22542/richard-feyn-man-i-can-live-doubt> [Accessed 6 Sep. 2018].

²⁵³ Boulton, J., Allen, P. and Bowman, C. (2015) p. 6. *Embracing Complexity (Kindle edition)*. New York: Oxford University Press.

above all others, it arose from the millions of deaths and torture of millions of people over a century across the world to be ready to receive the beginnings of a way forward. Culture is spoken of as if it is positive and enabling. McDermott and Varenne (1995)²⁵⁴ challenge this notion and highlight the disabling functions of any culture which marginalizes as much as it includes.

“Common sense allows that persons unable to handle a difficult problem can be labeled “disabled.” Social analysis shows that being labeled often invites a public response that multiplies the difficulties facing the seemingly unable. Cultural analysis shows that disability refers most precisely to inadequate performances only on tasks that are arbitrarily circumscribed from daily life. Disabilities are less the property of persons than they are moments in a cultural focus. Everyone in any culture is subject to being labeled and disabled.”²⁵⁵

The idea that society may be studied in a standardized and organized manner is comparatively recent. The social scientists are parvenue voices of scientific research. Scholars trace the origins of natural science as far back as pre-literate human societies whereas the social sciences began most intentionally in the early 19th century, with some concession that if one looks hard you can find antecedents in the works of Plato, Aristotle and others. Age is not the only gap between the natural and social sciences, other differences such as the lack of widespread acceptance and rigorous application of formal theories, empirical testing, repeatability of findings are all cited as vulnerabilities in addition to the context dependent objectivity referenced earlier, that question the durability of scientific claims of the social sciences.

During this research I became aware of the gaps between the ‘science’ of something manifested in artefacts or instruments like policies and laws with labels and the practice in the everyday complexity of life; and the conflation of that which is set in time with the intention of eternity such as principles and those set in the context of time with the intention of managing situations and events as in the creation of legislation. Reconciliation of the gaps is not purely an academic endeavor but one that is of significant importance to policy and legislation development and enactment. “The social sciences carry a measure of legitimation by the degree to which they resemble the natural sciences and actually incorporate features concepts, law, or theories of the natural sciences. Because most people think of physics when they consider what a science should be like, the social sciences are most impressive to the general public.”²⁵⁶ The general public has grown to value the time and proof hardened discipline of the natural sciences through the products they produce and the quality of lifestyle they make achievable. Of this discipline,

²⁵⁴ McDermott, R. and Varenne, H. (1995). Culture as Disability. *Anthropology and Education Quarterly*, 26(3), pp.324-348.

²⁵⁵ Ibid, p. 324.

²⁵⁶ Cohen, R. (2011) p. xxii. *The Natural Sciences and the Social Sciences (ebook)*. Dordrecht: Springer. <https://link.springer.com/content/pdf/bfm%3A978-94-017-3391-5%2F1.pdf>

objectivity may be the greatest value. To call a thing objective, especially in science, implies that it has importance and approval. There is a value proposition of objectivity that presupposes there are two kinds of qualities when observing and evaluating humans and their experiences: “ones that vary with the perspective one has or takes, and ones that remain constant through changes of perspective.”²⁵⁷ The first has relative properties, the second has objective properties. Linnaeus’ taxonomy shows that his perspective created and changed some of the zoological nomenclature the world uses when classifying human beings but not the constant that human beings are in fact human beings nor that one of them occupies a metaphysically privileged position. Nagel proposes that objective properties are identified in stages:

“(1) The first stage is to see that our perceptions are caused by the action of things on us, through their effects on our bodies, which are themselves parts of the physical world; (2) the next stage is to realize that since the same physical properties that cause perceptions in us through our bodies also produce different effects on other physical things and can exist without causing any perceptions at all, their true nature must be detachable from their perceptual appearance and need not resemble it; and (3) the third stage is to try to form a conception of that true nature independent of its appearance either to us or to other types of perceivers.”²⁵⁸

Human Rights and Relativism

Applying this value proposition, the concept of human rights comprise objective properties. The objective fact of ‘Being’ is constant in every human person, regardless of perception of physical or mental differences, regardless of perspectives and behaviors that manifest themselves in the physical world. Regardless of appearance or behavior, man or woman, color of skin, religious belief or lack thereof, a human recognizes itself and other selves as human. Human rights is a unified concept of human beings wherein the true nature of any and all humans are independent of socially constructed perceptions including without limits ethnicity, race, nationality, gender, cultural and political. ‘Being’ is objective in and of itself therefore not relative to perspective. Relativism is the notion that any property, or multitude of properties, only exists as a result of reasoning perspective, an application of differing conventions and frameworks of assessment that assign authority to the contexts giving rise to them. Relativism is dependent on socially constructed perceptions including without limits ethnicity, race, nationality, gender, cultural and political. Relativism holds that a notion of human rights cannot comprise objective properties; that human rights is relative to any framework of assessment and perspective of authority it assigns. Skepticism about the objective properties that comprise human rights and the academic

²⁵⁷ Reiss, J., Sprenger, J. and Zalta, E. (2017). *Scientific Objectivity* (*Stanford Encyclopedia of Philosophy*). [online] Plato.stanford.edu. Available at: <https://plato.stanford.edu/archives/win2017/entries/scientific-objectivity/> [Accessed 9 Oct. 2018].

²⁵⁸ Nagel, T. (1989) p. 14. *The View From Nowhere*. New York: Oxford University Press.

nature of the authority assigned to the voices of the skeptics is an issue that was raised by every participant of this research.

This skepticism, or perspective by its own definition, is called ‘Cultural Relativism.’ Objectivity, or the lack thereof, has been linked with the concept of cultural relativism, the idea that the values, customs, and beliefs of another’s culture defines the human beings within the cultural context of the community being studied. This assigning of humans to a preferred category as the basis for deciding which facts are pertinent to the desired conclusion is not without precedence in the sciences. In the practice of medicine for example, an efficient, however unfortunate, generally accepted communication shortcut where the name of the disease or illness defines the patient in context with the disease, illness or injury being treated is used regularly: she’s a diabetic, he’s an asthmatic, she’s a paraplegic, etc. However, regulations that govern medicine require that all patients regardless of ethnicity, age, race, culture, country of origin, religion, and disease, illness and or injury, have the same rights. Many hospitals even have what is referred to as a Patient’s Bill of Rights, “a document that provides patients with information on how they can reasonably expect to be treated during the course of a hospital stay. These documents are, in almost all cases, not legally-binding”²⁵⁹ however they are an attempt to recognize that the use of the word patient is only in context with the medical perspective, a patient does not exist in absence of being human, human first, patient second. A human with rights.

Cultural relativism theorizes that culture exists in absence of being and being is what you become only in context to culture. Oh, one more small detail, this theory applies only if ‘you’ are specified as ‘other.’ At one time, or perhaps it still is, this perspective when it involved a color spectrum context that stands-in for culture, was called racism. Cultural relativism appears to have breached the academic boundaries of understanding and hypothesizing to the nurturing and feeding of a political agenda that locks the already disenfranchised ‘other’ in long-standing painful oppression. George Santayana offers a clue to this dilemma:

“The whole machinery of our intelligence, our general ideas and laws, fixed and external objects, principles, persons, and gods, are so many symbolic, algebraic expressions. They stand for experience; experience which we are incapable of retaining and surveying in its multitudinous immediacy. We should flounder hopelessly, like the animals, did we not keep ourselves afloat and direct our course by these intellectual devices. Theory helps us to bear our ignorance of fact.”²⁶⁰

²⁵⁹ Michigan Birth Injury & HIE Attorneys. (2017). *What is a Patient's Bill of Rights and Why is it Important?*. [online] Available at: <https://www.abclawcenters.com/blog/2017/04/03/what-is-a-patient-bill-of-rights/> [Accessed 6 Dec. 2018].

²⁶⁰ Cassell, E. (2004) p. 206. *The Nature of Suffering and the Goals of Medicine*. Oxford: Oxford University Press.

It is not the perception of a being in context of experience but the existence and reality of the being regardless of context that is crucial in determining how any knowledge should apply to the human experience. The natural defects that exist in human beings that have been manifested throughout history as oppression and violence we are doomed to repeat if we blindly accept them as natural to any one's present and future. "Shortsighted people make opposites, mutually exclusive."²⁶¹

Cultural Relativism's Relevance

"The scientist will resist the all-or-none tendencies to dichotomize and rubricize, and will continue to think in terms of degree, and to be holistically aware of many, many determinants acting simultaneously. He will try as hard as he can to be receptive to the data, differentiating them as clearly as he can from his wishes, hopes, and fears. It is now quite clear that these problems—what is the good person and what is the good society—fall well within the jurisdiction of empirical science, and that we may confidently hope to advance knowledge in these areas."²⁶²

Cultural relativity has received much attention in recent years, especially as it relates to human rights. "It is a scientific based theory of human conduct based upon observational studies of different cultures and different societies."²⁶³ A popularized concept of cultural relativism holds that human conduct, although relative, is cemented in any framework of assessment and perspective of cultural authority it inherits; that the culture that an individual is born into and or that an individual becomes oppressed by, is indelibly inescapable and the primary determinant of one's fate. Many in the social sciences, including Franz Boas who is the initiator of the theory of cultural relativism, who is also commonly referred to as the father of American anthropology, position culture as the primary concept for describing differences in behavior between human groups; the central analytical concept of anthropology. However, the cultural relativism defined by Boas has become masked by the previously referenced popularized version "that claims to be empirical but is illogical; claims to be objective but is surreptitiously moral; claims to be reasonable but elevates irrationalism; and, claims to be scientific but prevents the development of an experimental science of sociocultural conduct."²⁶⁴ Calling Franz Boas a cultural relativist using today's popularized use of the theory would be an insult of the first order and fake news.

²⁶¹ Maslow, A. (2014) p. 11. *RELIGIONS, VALUES, AND PEAK-EXPERIENCES*. United States: Stellar Classics.

²⁶² Maslow, A. (1954) p. xxvi. *Motivation and personality*. Harper & Row. http://s-f-walker.org.uk/pubsebooks/pdfs/Motivation_and_Personality-Maslow.pdf

²⁶³ Hartung, F. (1954) p. 118. Cultural Relativity and Moral Judgments. *Philosophy of Science*, [online] 21(2), pp.118-126. Available at: <https://www.journals.uchicago.edu/doi/pdfplus/10.1086/287333> [Accessed 10 Oct. 2018].

²⁶⁴ Hartung, F. (1954) p. 118. Cultural Relativity and Moral Judgments. *Philosophy of Science*, [online] 21(2), pp.118-126. Available at: <https://www.journals.uchicago.edu/doi/pdfplus/10.1086/287333> [Accessed 10 Oct. 2018].

Applying Maslow's statement, the cultural relativists of today, dichotomize and rubricize cultures and humans resulting in a social science promulgated theory wherein cultures primarily make humans possible. As it relates to human rights specifically, cultural relativists empower cultures as dominant entities using scientific means, although fallaciously so, sponsoring a socially credentialed achievement to the cultural relativist and a socially exacted harm, pain and even death to the specified cultural subjects. Following are statements made by the participants of this study that speak of and to the perspective promoted by some cultural relativists and the collaterally damaged thinking it brings to human rights policy and legislation:

(P001) *The hyper-sexualization and objectification of girls and women in western culture; the sexuality that is inappropriately directed at and imposed on girls through films; all forms of media, marketing, products, etc., that encourages girls to act in adult sexually explicit ways, and the result of this objectification of girls in western culture is used to promote and safeguard FGM by the cultures that practice it.*

(P002) *This is about human rights, protecting. Whether you are white, black, blue or green, if you do nothing, I will see you as a racist.*

(P004) *If these were blue-eyed blonde girls with pigtails, the world would be outraged.*

(P006) *A colleague of mine with the RCN and I were talking about how much has and hasn't been done about FGM, and what recommendations need to happen to move things along. The key thing for us was the fact that FGM has to be referred to as abuse because up to that point in time, people weren't referring to it as abuse, especially child abuse, and while people were not, people were actually talking about it in terms of its cultural focus and while you do that people can have an opportunity to stand back and not actually get involved because they'll say, 'oh it's their culture and not our responsibility or our right to engage' whereas when you start talking about it as abuse and you start talking about the children's lives, children who have been affected by it, then people's perceptions change and I guess it starts at that point.*

(P007) *I've presented, many times, to students and clinicians about FGM, but I probably won't do it again. [REDACTED] (a major academic medical center in the U.S.) is a difficult place, but I would say almost everywhere I go, when you're a white person talking about FGM you get a lot of push back in this country. I don't get push back in Africa. But in this country, there is definitely a subset of millennials who are way too placed in cultural relativism which I think is lazy and they don't like to hear that. Not everything is ok, there actually are things that are bad, and there are things that are good, and there's a lot of gray, but there are things that aren't gray. I also get a lot of 'who are you to criticize African culture,' and that's always from Americans. It's not from Africans. People from Africa don't have an issue with whomever is speaking about it, that's part of our strange, bizarre history in the U.S., but...you know, it is*

what it is. I argue that human rights issues are everyone's issues, and women's rights are every woman's issue. There is very much a victim's ownership in the U.S. on some issues. This is one of them. There's a difference between being culturally sensitive and still applying basic morality to a culture. I have to explain that all the time. All the time.

*(P009) There is this notion of cultural relativity, especially in the U.S., it may not be the way we do things, but this is **their** culture, this is **their** religion. I think you need to take that on quite aggressively. We wind up giving a break to a lot of people who represent the most regressive part of different cultures, different religions, we give them a pass, because we say, 'well that's not our way, that's the way they've done it for thousands of years' but for the people that are on the receiving end of the abuse that's not very satisfying. You have to know that that's going on and figure out what to do about it. You're dealing with a particularly hard issue, in a community cultural tradition, that has been particularly not good for standing up for some people.*

(P010) There is always a perception that FGM is an African problem, it is actually a global problem. It is a vast problem across all nations. Although most of the people that practice it are African, so some people say we should just say it and claim it, but it is not. The beauty about when you protect someone you empower them to understand that, whatever I am protecting you from is wrong, so they know that even though they go back to their country they would know that this is wrong, and it happens, but it is wrong. And this is how you can protect someone from it. Since it is a cultural issue, you cannot force your perception on somebody, but you can educate them and get them to understand.

(P017) I have plenty of people say to me, about FGM, 'oh well, that's their culture and I wouldn't do that to my child, but who am I to say that that's something they shouldn't do.' I've gotten into some pretty intense arguments with people about my firm belief, that that position is just reverse racism and that if it's something that is not appropriate for your own child then you cannot say that it is ok for others to do it to theirs, because this practice is child abuse, Generally, when people reflect upon it they then may say, 'yeah, I get it,' but that initial response of 'who am I to judge?' is a big problem in solving this issue here in the U.S., and it's part of the reason people are not reporting it, that teachers are not reporting it, that physicians are not reporting it, and it's part of the reason people aren't putting legislation in place because if they don't have someone standing there pushing back on them they default to 'who am I to criticize.' This default position is not helpful, it's harmful.

David Graeber, an American anthropologist and professor of anthropology at the London School of Economics says that in Malagasy, the language of the people of Madagascar, there is a word, "tsindriana," that means "oppressed." "The literal definition is to be pressed down, crushed by a heavy weight; and when used in a political context, it means to suffer under some kind of unjust

power or authority.”²⁶⁵ Graeber goes on to say that the English equivalent, “the people are oppressed,” can be translated directly into many different languages “spoken by a majority of human beings, using the same metaphor, with no need for exegesis or elaboration,” and if there is a language where an equivalent does not exist, “a competent speaker could improvise a metaphor that no one would find in any way difficult to understand what exactly was being relayed...power is almost invariably figured as something placed over people: what better way to express abusive power than by something above you pressing down.”²⁶⁶

It is easy to envisage the practice of FGM as a metaphor of ‘oppressive,’ in both its universal and personal sense when seen through the experiences retold by the survivors, such as that of Hibo Wardere “I was placed in between the woman’s legs and pushed back until my bottom was nudged up against the woman, at which time the woman’s arms clamped down on my arms holding me very tightly across my chest.”²⁶⁷ Or the picture *Aëtius* brings to view when he wrote: “The surgery is performed in this way: Have the girl sit on a chair while a muscled young man standing behind her places his arms below the girl’s thighs. Have him separate and steady her legs and whole body,”²⁶⁸ or when Gerry Mackie argues “a practice associated with shameful female slavery came to stand for honor, wherein female slaves were subjected to FGM to oppress sexual activity and prevent pregnancy.”²⁶⁹ Honor, institutionalized through the practice of FGM, was introduced and inculcated “as a very sacred symbol” of the representation of the “overall value of a female” in the slave trade.²⁷⁰ Ghadially also shared that female circumcision in the Bohra community she grew up in was performed for ‘Izzat,’ honor. Ghadially’s, Mackie’s and Graeber’s references to acts ‘standing in for honor’ segued me to Lacan and his theory of the signified and the signifier which opened a whole new dimension of thought and how I come to know and view concepts of values, such as that of honor. While considering Lacan’s theory, the understanding that words and phrases can be used to not only signify what something ‘is’ but what it ‘is not,’ both what it ‘has’ and what it ‘lacks’ was revelatory. This concept of formation is an example of what can be done with language; “not only can one say the same thing in another way, but one can say something other than what is the case:” enter the notion of the sophist.²⁷¹

This understanding and articulation in formation further illuminated the immeasurable dimension of mal-intended thought wherein values are crafted and manipulated as tools to achieve both means and ends; how the perspective of who defines them and who achieves them is of critical importance; and, most importantly, to whose ultimate purpose and benefit. For me this theory solidified the practice of FGM as the coerced shaping of young girls for the master’s purposes; a

²⁶⁵ Graeber, D. (2008) p. 255. *Possibilities*. Edinburgh: A K Press

²⁶⁶ Ibid.

²⁶⁷ Wardere, H. (2016) p. 5. *Cut*. London: Siman & Schuster.

²⁶⁸ Ebah, E. (2016) loc. 94-102. *Female Genital Mutilation (FGM): A Deadly Degrading Painful Practice*. Glasgow, UK: Divine Spark Publications (Kindle Edition).

²⁶⁹ Ibid, loc 89 – 107.

²⁷⁰ Graeber, D. (2008) p. 97. *Possibilities*. Edinburgh: A K Press.

²⁷¹ Ricoeur, P. and Brennan, E. (2005) p. 28. *On Translation*. New York: Routledge.

manipulation that was commercialized through community economics evolving into an honored income and inheritance of the receiving communities; further cementing the systematic inculcation of oppression that through the years ‘stood-in’ for the long-gone voices of the slave traders and masters. Similar to that of my own child abuse experience and its sequelae in my life, the ventriloquy of voices of the oppressors and tyrants continues in their absence. It is insidious and invidious power when the will of the individual, or community of individuals, becomes that of the master’s in the master’s absence. “A man chooses, a slave obeys.”²⁷² Obedience stands in for choice. “The ultimate proof that one has sovereign power over another human being is one’s ability to have them destroyed, executed. In a similar fashion, one might argue, the ultimate proof of possession, of one’s personal dominium over a thing, is one’s ability to destroy it, and indeed, this remains one of the key legal ways of defining dominium, as a property right to this day.”²⁷³

The destruction of the will and the destruction of female genitalia reduces the female to property, eliminates choice and increases value and production to the slave traders, the masters and the communities as masters. Value as a representation of the fees and wages for the production of labor, the female slave’s capacity to ‘produce labor, not reproduce through labor,’ is what the slave trader was selling the master. A female slave that gets pregnant is a liability to the projected production of work, an immediate financial and production loss to the master resulting from the diminishing return on investment due to the loss of the female slave’s ability to work as expected due to pregnancy and motherhood. This contrived honor in the form of coercion in practice, manifested multiple currencies, the price paid by the master to the slave trader, the production of female slave labor over time to the master (return on investment), and whatever political or realized currency the community and family received from producing such honorable female slaves. This historically told story of honor and value of females as property through the manifestation of currency brought to the community and the family, is told today through very similar reasons given for the reasons the practice continues:

- Safeguards virginity before marriage; proof of virginity
- Promotes marriageability increasing a girl’s chances of finding a husband; virginity
- Ensures chastity, honor and genital purity which are an essential part of the value of the dowry²⁷⁴ brought to the husband and his family by the girl
- Ensures fidelity after marriage
- Prevents rape
- Religious requirement
- Source of income for cutters

²⁷² Ryan, A. (2018). *A man chooses, a slave obeys*. [online] BioShock Wiki. Available at: http://bioshock.wikia.com/wiki/A_man_chooses,_a_slave_obeyes [Accessed 11 Sep. 2018].

²⁷³ Graeber, D. (2008) p. 73. *Possibilities*. Edinburgh: A K Press.

²⁷⁴ Encyclopaedia Britannica. (2018). *Dowry | Marriage Custom*. [online] Available at: <https://www.britannica.com/topic/dowry> [Accessed 25 Oct. 2018].

FGM disguised as honor by the slave trade, one that also brought honor and currency to the community and family, seems to have become an institution in the community under the auspices of protecting the value of the property of the community and the family. This sense of value and protection remained as a tradition of honor, continuing to operate in the absence of its original creators and masters, eventually adopting an invisible, spiritual means, such as that afforded religion.²⁷⁵ This leads me to another question: why would the women of the community become ‘the cutters,’ why would they ‘stand-in’ in the absence of the slave traders and masters, and their community for that matter? The reason may be due to the most primitive of instincts: fear of death, fear of loss of recognition, fear of loss of honor, fear of loss of value, fear of ostracization, fear of having no worth to the community, fear of alienation from the community which in many cases is greater than the “fear of death.”²⁷⁶

Ricoeur addresses the importance of recognition as a condition of cultural existence in his model of threefold mimesis, the process of reconfiguration.

“Self-consciousness is a recurring challenge and an activity that can only be faced in a cultural relation to others; this results in a perpetual birth of the self (-naissance) by the culturally facilitated process of recognition. A human being finds him- or herself continually again as human in relation to humanity expressed as culture.”²⁷⁷

In communities that practice FGM, as inculcated by millennia of years of slave trading and the forms of currency it brought to the communities, girls are valued property whose honor and worth are recognized and guaranteed by the act. A girl’s honor and community recognition and value are sealed with FGM: “...a sense is what has the power of receiving into itself the sensible forms of things without the matter, in the way in which a piece of wax takes on the impress of a signet-ring without the iron or gold...”²⁷⁸

When dealing with such stories and metaphors of oppression, Graeber surmises what an anthropologist would have to say about this: “the first reaction would be to try to show it isn’t true, and if they were unsuccessful they would dismiss its significance.”²⁷⁹ Graeber believes that such universal connections in language and behaviors to oppression “are potentially extremely significant because they can manifest a cognitive dissonance popularly called cultural relativism.”²⁸⁰ “No one likes to argue that a slave trader’s, or master’s, or a community’s

²⁷⁵ Graeber, D. (2008) p. 121. *Possibilities*. Edinburgh: A K Press.

²⁷⁶ Ibid.

²⁷⁷ Helenius, T. (2016) p. 5. *Ricoeur, Culture, and Recognition (Kindle Version)*. London: Lexington Books.

²⁷⁸ Aristotle and Barnes, J. (1995) p. 674. *The Complete Works of Aristotle - The Revised Oxford Translation*. Princeton: Princeton University Press.

²⁷⁹ Graeber, D. (2008) p. 255. *Possibilities*. Edinburgh: A K Press.

²⁸⁰ Ibid, p. 255.

perspective is just as legitimate as the mutilated female slave in this case, so the solution is to appeal to some notion of cultural relativism: they live in a different moral and conceptual universe, and who are we to say ours is more intrinsically legitimate?”²⁸¹

Some researchers refer to David Hume as a cultural relativist due to his research on cultural variations and how to reflect upon them cross-culturally to show that “...reason is, and only ought to be the slave of the passions...”²⁸² In Hume’s analysis concerning

“the general foundations of morals...whether they be derived from reason, or from sentiment...whether we attain the knowledge of them by a chain of argument and induction...or they be founded entirely on the particular fabric and constitution of the human species” the examination of different cultures and societies produced variations “between them on the definition of specific behavior as being good, or evil, or indifferent.”²⁸³

Hume “offers the argument that since the chain of reasons why one acts must finally stop at something that”²⁸⁴... “must be desirable on its own account, and because of its immediate accord or agreement with human sentiment and affection,”²⁸⁵ and “sentiment is needed to account for ultimate human ends and since virtue is an end, sentiment and not reason alone must distinguish moral good and evil.”²⁸⁶ Hume posits that “at least one foundation of moral praise lies in the usefulness to society of the praised character trait” therefore there must always be some sentiment that makes a community, a society, or a culture “favor one over the other.”²⁸⁷

When dealing with the “transferal from the impression of the self to the ideas of the sentiments of others,” cross-cultural so to speak, Hume appeals to sympathy with others as a “manifestation of the sentiment of humanity” which has greater prominence.²⁸⁸ Hume’s theory appears to be a framework that was intended to capture, reflect upon, analyze and discern cultural variations of behaviors that are reflective of values of a specific culture, which differ from culture to culture, and from epoch to epoch versus those which transcend time and culture which all humankind

²⁸¹ Ibid, p. 256.

²⁸² Hume, D. and Mossner, E. (1985) loc. 275. *A Treatise of Human Nature (e-book)*. London and New York: Penguin Classics.

²⁸³ Hartung, F. (1954) p. 120. Cultural Relativity and Moral Judgments. *Philosophy of Science*, 21(2), pp.118-126.

²⁸⁴ Cohen, R. and Zalta, E. (editor) (2018) Section 14. Differences between the *Treatise* and the Moral a. *Hume's Moral Philosophy*. [online] Plato.stanford.edu. Available at: <https://plato.stanford.edu/entries/hume-moral/-pw> [Accessed 13 Sep. 2018].

²⁸⁵ Hume, D. and Schneewind, J (introduction and edited by) (1983) loc. 1800. *An Enquiry Concerning the Principles of Morals (e-book)*. Indianapolis and Cambridge: Hackett Publishing Company.

²⁸⁶ Cohen, R. and Zalta, E. (editor) (2018) Section 14. Differences between the *Treatise* and the Moral a. *Hume's Moral Philosophy*. [online] Plato.stanford.edu. Available at: <https://plato.stanford.edu/entries/hume-moral/-pw> [Accessed 13 Sep. 2018].

²⁸⁷ ibid

²⁸⁸ Ibid

manifest because humans exist, which are today commonly referred to as universals or human rights, and in the United States sometimes referred to as inalienable rights. Although Hume does not appear to draw a conclusive position from this theory, from my perspective, it does not appear to be about relativism, it appears to be about how one reflects on and recognizes the differences of cultural variations in practice, and the absolute reality experienced by those variations in a specific culture versus those that transcend all humankind, an ethics for all of humanity so to speak, regardless of culture; meaning-making that blends reason with sympathy for self and others, arriving at those that should be regarded as universal.

Cultural relativism manipulates for its means, the concepts of autonomy and self-determination as those belonging to community and culture. Cultural relativism seems to be more rationalization than relativism. Murphy's inquiry into how ethical diversity and moral conflicts are acknowledged and analyzed within a framework of practical reason begins with the premise that "persons do behave irrationally," and questions how is irrationality that presents as diversity and conflict to be analyzed and explained within a context of practical reason:²⁸⁹

"Ethical diversity and moral conflict is not between appetites seeking information...but between false 'goods' and true, where the false must present themselves as true if they are to maintain their hold upon the will of men who know what it means to ask for justifying reasons for action. Rationalization is the homage that the irrational pays to reason, for it is only under some form of practical justification that the irrational can be willed. And only a self or practical agent can be in this way irrational.²⁹⁰ The process of rational inquiry is a self-correcting process and its 'ultimates' are found neither in initial preconceptions or final self-evident disclosures, but precisely in this learning process itself and the values that are attained through its reliable and constructive operation....The range and limits of each community are determined by the maintenance of a form of life within which such community is more than a mere ideal aspiration, where it is in fact a working 'modus vivendi' of mutually acknowledged rights, responsibilities and self-imposed restraints."²⁹¹

²⁸⁹ Schon, D. (1968) p. 426. Arthur Murphy on the Theory of Practical Reason. *Philosophy and Phenomenological Research*, [online] 28(3), pp.423 - 429. Available at: <https://www.jstor.org/stable/2106013?seq=7 - metadata info tab contents>.

²⁹⁰ Ibid, p. 426.

²⁹¹ Schon, D. (1968) p. 426, Arthur Murphy on the Theory of Practical Reason. *Philosophy and Phenomenological Research*, [online] 28(3), pp.423 - 429. Available at: <https://www.jstor.org/stable/2106013?seq=7 - metadata info tab contents>, references *The Theory of Practical Reason: The Paul Carus Lectures, Series 10, 1955 pp. 348-349*. Arthur E. Murphy. LaSalle: Open Court Publishing Company, 1965. Pp. xviii, 440.

Conventional ethics is the starting point of consideration, not the end of practical reason.²⁹² Donald Schon in his review, Arthur Murphy on the Theory of Practical Reason, finds Murphy's emphasis on the practical and moral process as constitutive of both self and community, holds promise for ethics:

“It is to Murphy's credit that he turns our attention to an ethics that is meta — not in the sense of being about ethical discourse — but in the sense of explicating the process of ethical inquiry...he has done us the service of attempting a synthesis of their views in a way that displays their joint emphasis on the process of practical and moral reason, undertaken by imperfect men in community.

...American writing on ethics and value theory has become a pattern of questions about ethical discourse rather than questions or positions within ethical discourse, going to great pains to dissociate themselves from substantive ethics. The effort to place ethics within the framework of scientific inquiry, broadly understood, has been disappointing. It has struggled with the problem of relating ethical judgments to 'ultimate' norms or values. There is a lack of ethical armament both for the horrendous problems confronting the nation in its use of power and for individuals in their efforts to make sense of their lives. At a time of great confusion and need in the ethical dimension of American life, ethics has seemed to have little or nothing to offer.”²⁹³

Cultural relativism challenges the concept of a framework of principles for human rights for all, regardless of ethnicity, race, country of origin or residence, gender, religion or disbelief thereof. Cultural relativism puts forth that there are no universal principles of behavior to which all peoples can be, or should be, held accountable. Of course, most if not all of these cultural relativists are probably safely ensconced somewhere in the Western world ordering 'a non-fat Frappuccino with extra whipped cream and chocolate sauce' from Starbucks or 'having it their way by supersizing' their French fries at McDonalds. It is easy to pretend to be an intellectual elitist by dismissing serious human rights violations to a shallow 'theory,' and create the impression you are erudite and worldly, giving yourself clearance to look away and do nothing but wax on under the façade of shallow science and academia. It is easy to say that some practice or action experienced by someone else is 'none of your business,' nor the world's business; it is easy to protect your own practices and claims of freedom and rights when the very freedom and rights you protect and claim for yourself protect you from the very practice that is being experienced by the someone else that you claim is 'none of your business;' an experience that you are viewing from a safe distance, 'protected by rights that you have inherited; protected by rights that have been given to you, but not given to them.' As long as it is not happening to you, it is not your business. It is much harder to take a stand for what is truly right, speak truth to

²⁹² Ibid, p. 427.

²⁹³ Ibid, pp. 423-424.

power, put yourself at risk and learn how to be accountable to your fellow humans. One world, all peoples and persons indivisible from humanity, freedom and justice for all. Principles have no meaning unless you stand by them when they are inconvenient. “Cultural relativism is destructive in both theory and practice. In theory, cultural relativism emphatically denies reason and objective reality. In practice, it sanctions the worst manifestations of violence and oppression.”²⁹⁴

Cultural expressions can be, and in many situations have become, the most predacious expressions of the most powerful in a family, community, society or country and as such, customs such as FGM, child abuse, slavery, human trafficking, prostitution and genocide are created and maintained by the powerful and disenfranchise the less powerful individuals and groups of individuals in a society. So, according to some, FGM is neither right nor wrong. FGM is wrong according to Western standards for Western civilization but according to cultural relativism, may be permissible for non-westerners from non-western civilizations. The obvious problem with this position is that if you take it to its logical conclusion, there would be no basis to claim that anyone was being oppressed, or that anyone’s human rights were being violated to begin with. Even in the Western world, until the 1970’s for some states in the United States, women as the property of their husbands was captured in a doctrine known as ‘coverture.’ Coverture “was a legal doctrine whereby, upon marriage, a woman’s legal rights and obligations were subsumed by those of her husband, in accordance with the wife’s legal status of feme covert.”²⁹⁵ Married women became the property of their husbands. Certain aspects of coverture survived as late as 1979 when the state of Louisiana became the last of the states of the United States to “have its Head and Master law struck down.”²⁹⁶ Using the theory of cultural relativism as presented by some as how its known today, including some Westerners, wherein all rights rest solely on culturally determined social rules that we are each born into, that we each inherit from those that came before us, then both African Americans and women in the United States, who are ancestors, or relatives of ancestors who came to the United States from cultures in Europe where slavery was permitted, and Coverture was the law, would still be considered property with restricted rights.

Earlier I referred to Franz Boas as the initiator of the theory of cultural relativism. I will now briefly summarize how his concept not only thoroughly opposes that of popularized cultural relativism but is an anathema to it. Boas was born in 1858, in a Germany that was still turbulent from the unsuccessful revolution of 1848 where reformers demanding national unity, freedom of the press and freedom of assembly were defeated by the seated traditional, autocratic political

²⁹⁴ Kanarek, J. (2013) p. 2. Critiquing Cultural Relativism. *The Intellectual Standard*, [online] 2(2, Article 1). Available at: <http://digitalcommons.iwu.edu/tis/vol2/iss2/1> [Accessed 15 Sep. 2018].

²⁹⁵ Black's Law Dictionary. (2014) p. 446. 10th ed. United States, America: Thomson Reuters.

²⁹⁶ Fuchs, E. (2015). *Justice Ginsburg compares gay marriage bans to a sexist law from 35 years ago*. [online] Business Insider. Available at: <https://www.businessinsider.com/ruth-bader-ginsburg-cites-louisianas-head-and-master-law-2015-4> [Accessed 25 Oct. 2018].

structures.²⁹⁷ This revolution took place not only in Germany but across more than 50 countries but with no significant coordination or cooperation between each country or each its activists. At that time, there was widespread dissatisfaction among the working class and underprivileged with political leadership across Europe and demands for freedom of individuals, democracy and more participation in government were common denominators.²⁹⁸ Boas was born into a “family that strongly espoused the principles of the unsuccessful Revolution and passionately embraced its beliefs that included the value of science, its application to acquire knowledge that would improve the human condition and freedom for the individual to better himself while contributing to advancing society and the world around him.”²⁹⁹ In 1883 Boas went to Baffin Island to conduct geographic research on the impact of the physical environment on native Inuit migrations. What he learned “led him to question the accuracy” of the historic “system on which evolutionary thinking” was based and as such “he systematically opposed all forms of classifying peoples into categories,” like that of race, and instead “insisted on the importance of individuality.”³⁰⁰ In the late 1880’s Boas immigrated to the United States where he reconceptualized anthropology, which at the time was dominated by “degenerationism — the belief that all contemporary primitives are descended from civilization prior to the construction of the Tower of Babel”³⁰¹— and many other religious devotees who may have used evolution and the linguistics of science as cover for the roots of their research, such as Linnaeus’ taxonomy — and transformed it into the science that would improve conditions with the advancement of humanistic and individualistic theories and values. Foremost in Boas’ thinking, was that “the behavior of each individual...was to be understood and judged exclusively in terms of the standards prevailing in the culture into which” each individual had been borne and raised;...“that human behavior was learned rather than the inevitable consequences of biology, climate or any other factors;...” and...“that ethnographic studies would lead to the systematic collection of data on the lives and cultures of peoples here-to-fore unstudied directly by scholars.”³⁰² Although he believed that “there were things of value in all cultures that might be incorporated into the rational composite of the future, many were more often than not the religious and or political shackles of dogma experienced not only by the disenfranchised but also by the masses,”³⁰³ “irrational beliefs in the authority of tradition,”³⁰⁴ “rather than something to be accepted

²⁹⁷ Evans, R. and Pogge von Strandmann, H. (2005) p. 4. *The revolutions in Europe, 1848-1849*. Oxford: Oxford University Press.

²⁹⁸ Ibid. p.5-6.

²⁹⁹ Greenfield, S. (2001) p. 4. Nature/Nurture and the Anthropology of Franz Boas and Margaret Mead as an Agenda for Revolutionary Politics. *Horizontes Antropológicos*, [online] 7(16). Available at:

http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-71832001000200003&lng=en&tlng=en [Accessed 16 Sep. 2018].

³⁰⁰ Harris, M. and Margolis, M. (2001) loc. 5154 - 5167. *The Rise of Anthropological Theory*. Walnut Creek, Calif. AltaMira Press.

³⁰¹ Ibid, loc. 1211 – 1227.

³⁰² Greenfield, S. (2001) p. 5. Nature/Nurture and the Anthropology of Franz Boas and Margaret Mead as an Agenda for Revolutionary Politics. *Horizontes Antropológicos*, [online] 7(16). Available at:

http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-71832001000200003&lng=en&tlng=en [Accessed 16 Sep. 2018].

³⁰³ Boas, F. and Stocking, G. (1974) p. 41. *A Franz Boas Reader*. Chicago: University of Chicago Press.

³⁰⁴ Ibid, p. 42.

uncritically and perpetuated.”³⁰⁵ Boas’ research “focused on testing, with the intent of disproving the usually unsubstantiated assertion of racist thinkers; that human behavior, for the most part, was learned rather than inherent in our biology.”³⁰⁶ According to Stocking, Boas

“started out to show that the mind of the dark-skinned primitive shared with that of the white-skinned European the powers of abstraction, inhibition, and choice. He ended by arguing that thought, action, and choice, whether primitive or civilized, were largely determined by the particular body of tradition and custom that has been controlling all our actions since the time of our birth.”³⁰⁷

Boas was never a cultural relativist. Boas’ theory was more deterministic: culture, not biology, and certainly not race, is the primary determinant of behavior.

When people continue to defend a disproven position when confronted with evidence that dismantles their obdurate point of view, like those who stand on cultural relativism as a Western scientific imprimatur that qualifies human rights violation, like FGM, as a respected cultural tradition that should be allowed to continue with non-interference, Graeber suggests “identifying a structure of authority, certain individuals who, more than others, can legitimately speak for the affected peoples as a whole.”³⁰⁸

Human rights did not originate in one historical moment, geographical location, or cultural tradition, and contrary to cultural relativists point of view, the concept of human rights did not originate in the West and are not even in their modern sense contemporary forms of imperialist impositions upon non-Western cultures and peoples.³⁰⁹ Multiple genealogies construct the ideas and practices that comprise contemporary human rights and can be traced to a range of philosophical, religious and cultural sources. The Babylonian Code of Hammurabi, dating back to the mid-1700’s BC, “is a set of principles regarding treatment” of different members of society articulated “with the force of law indicating that while human rights embody sociocultural aspects of human interaction, they are in fact primarily a matter of recognition before the law.”³¹⁰ In 1215 the Magna Carter in England was a historical act that still informs constitutional law in the United Kingdom and is seen as a foundational step towards human

³⁰⁵ Greenfield, S. (2001) p. 5. Nature/Nurture and the Anthropology of Franz Boas and Margaret Mead as an Agenda for Revolutionary Politics. *Horizontes Antropológicos*, [online] 7(16). Available at: http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-71832001000200003&lng=en&lng=en [Accessed 16 Sep. 2018].

³⁰⁶ Ibid, p. 5.

³⁰⁷ Stocking, Jr., G. (1966) p.p. 877, 878. Franz Boas and the Culture Concept in Historical Perspective. *American Anthropologist*, [online] 68(4), pp.867-882. Available at: <https://anthrosource.onlinelibrary.wiley.com/doi/epdf/10.1525/aa.1966.68.4.02a00010> [Accessed 16 Sep. 2018].

³⁰⁸ Graeber, D. (2008) p. 257. *Possibilities*. Edinburgh: A K Press.

³⁰⁹ Stimpson, C. and Herdt, G. (2014) Kindle Version loc. 2572. *Critical Terms for the Study of Gender*. Chicago and London: The University of Chicago Press.

³¹⁰ Ibid, loc 2574.

rights in Europe and the United States and foreshadowed the French Rights of Man and of the Citizen in 1798.

“The United Nations Universal Declaration of Human Rights enacted in 1948 is a milestone document in the contemporary history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly as a common standard of achievements for all peoples and all nations.”³¹¹

“It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages.”³¹²

Universal Declaration of Human Rights Preamble³¹³

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights

³¹¹ UN.org. (2018). *Universal Declaration of Human Rights*. [online] Available at: <http://www.un.org/en/universal-declaration-human-rights/> [Accessed 17 Sep. 2018].

³¹² Ibid.

³¹³ Ibid.

and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, The General Assembly, Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

The United Nations Universal Declaration of Human Rights (UDHR) aligns with the United States' Declaration of Independence and the French Declaration of the Rights of Man and of the Citizen: "human rights are rights held by individuals simply because they are part of the human species."³¹⁴ And like the preamble of the Declaration of Independence of the United States, the UDHR references 'inalienable rights' as those that are fundamental and universal to all. Culture is historically constructed and a politically determined category that changes over time at "the behest of hegemonic forces, precisely the ones most likely to violate the rights of certain peoples when it is expedient or profitable to do so," and as history shows, often serves as rationalizations for doing harm to, and for continuing the harm of, the most vulnerable of societies.³¹⁵ Human rights advocacy opens the door to freedom and lights a flame for guidance...for all. Cultural relativism extinguishes the flame and closes the door...for some. Acknowledgement by the world of cultural harmful traditions as human rights violations is recognition "that the past might have gone another way and is also acknowledgment that the future can be different."³¹⁶ In the words of Aristotle: "For man, when perfected, is the best of animals, but, when separated from law and justice, he is the worst."³¹⁷

A final parting thought to the cultural relativist lurking in any one of us that shows itself in those moments when a blind eye or deaf ear is turned in the wake of witnessing what may be considered abuse:

³¹⁴ Stimpson, C. and Herdt, G. (2014) Kindle Version, loc. 2573. *Critical Terms for the Study of Gender*. Chicago and London: The University of Chicago Press, reference to Ishay, Micheline (1997) *The Human Rights Reader: Major Political Essays, Speeches and Documents from Ancient Times to the Present*. New York: Routledge.

³¹⁵ Ibid, loc. 2591.

³¹⁶ Carroll, J. (2001) Kindle Version p. 62. *Constantine's Sword*. Boston: Houghton Mifflin.

³¹⁷ Aristotle and Barnes, J. (1995) p. 1987-1988. *The Complete Works of Aristotle - The Revised Oxford Translation*. Princeton: Princeton University Press.

“He who sees a need and waits to be asked for help is as unkind as if he had refused it.” —
Dante Alighieri

FGM and the Law

International Law

(P014) The CRC is the Convention on the Rights of the Child created by UNICEF. It was the first ever of its kind, a global summit for children was held in 1990, and for the first time ever, heads of state placed children centrally on the docket for a UN General Assembly. The output document from that summit basically became the CRC. It's the most widely ratified treaty in the history of the world. And most of those ratifications and signatures came within 18 months of 1990's rollout. The US is the only country that has not ratified the CRC. Before the CRC there were no special rights for children. The CRC basically treats children as a special category of citizens whose lives are dependent on decisions of the adults around them, not just their parents but everybody around them because they are utterly dependent on the choices of government and others around them. The CRC obliges everyone to make sure that children have what they need to survive and thrive. The objection claimed by the US is around sovereignty and critics say 'oh, they're trying to undermine parental authority and give children rights to sue their parents,' which is complete bullshit. Anyway, the CRC has great international leverage. When UNICEF reps travel out to the battle grounds of places like Somalia and Sudan, the horn of Africa, and present that document to rebel leaders and say 'look, the other rebel leader over there signed it so you should sign it too,' there's that mental pause, people don't want to be left out; they don't want to be that last country left behind. People are shamed sometimes into doing the right thing.

FGM is a violation of the human rights of girls and women and recognized as such in numerous international and regional human rights instruments, treaties, and documents relevant to international human rights law and the protection of human rights in general. These instruments which are created by intergovernmental organizations can be classified into a human rights framework with two classifications: “declarations, adopted by bodies such as the United Nations General Assembly, which are not legally binding although they may be politically so as soft law, and conventions, which are legally binding instruments concluded under international law.”³¹⁸ Soft law refers to agreements “that are neither strictly binding in nature nor completely lacking legal significance.” In the context of international laws, “soft law refers to declarations or codes of conduct which set standards of behavior that are not directly enforceable but nevertheless hold much political sway.”³¹⁹ Soft law can be the first step towards a treaty-making process, in which reference will be made to the principles already stated in the soft law instruments, not unlike

³¹⁸ International Justice Resource Center. (2018). *Overview of the Human Rights Framework*. [online] Available at: <https://ijrcenter.org/ihr-reading-room/overview-of-the-human-rights-framework/> [Accessed 26 Oct. 2018].

³¹⁹ US Legal, (2018). *Soft Law: Law and Legal Definition | USLegal, Inc.*. [online] Definitions.uslegal.com. Available at: <https://definitions.uslegal.com/s/soft-law> [Accessed 25 Oct. 2018].

memorandums of understandings (MOU's) between organizations which are common in the world of business. Non-treaty, soft law agreements are intended to have a direct influence on the practice of states, and to the extent that they are successful in doing so, they may lead to the creation of customary law. In today's globalized society, the internet has become a significant avenue for global communication and governance spreading the knowledge of declarations and commitments made at international conferences which often capture the attention and imagination of citizens and inform their daily lives, where citizens begin to refer to these soft law instruments with such regularity that they begin to inform and evidence state, regional and community norms.³²⁰

International 'conventions' are treaties of agreements and contain the set of rules that are accepted as binding in relations between states and nations who are the primary actors in international law. "In diplomacy, the term convention does not have its common meaning as an assembly of people, rather, it is used in diplomacy to mean an international agreement or treaty."³²¹

"The term treaty is used generically to describe a variety of instruments including conventions and agreements" that establish obligations between states and nations, laws that are "primarily applicable to countries rather" than the "private citizens" of each.³²² Examples of multilateral treaties are the Convention Relating to the Status of Refugees, the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Rights of the Child."³²³

A declaration is another type of document stating agreed upon standards, usually crafted and negotiated by many parties but which is not in and of itself, legally binding. The Declaration of the Rights of the Child, sometimes known as the Geneva Declaration of the Rights of the Child, is an international declaration that was one of the first to promote the rights of children. "The Declaration was adopted by the League of Nations General Assembly in 1924 as the World Child Welfare Charter and was the first human rights document approved by an inter-governmental institution."³²⁴ Then on November 20, 1959 the United Nations General Assembly adopted a Declaration of the Rights of the Child, based on the structure and contents of the 1924 original. In 1989 the United Nations introduced the Convention on the Rights of the Child (CRC)

³²⁰ Joyce, D. (2015). *Internet Freedom and Human Rights*. [online] Oxford Academic. Available at: <https://www.omicsonline.org/open-access/globalisation-and-media-2165-7912.1000105.php?aid=3360> [Accessed 25 Oct. 2018].

³²¹ Encyclopedia Britannica. (2018). *diplomacy | Nature, Purpose, History, & Practice*. [online] Available at: <https://www.britannica.com/topic/diplomacy> [Accessed 26 Oct. 2018].

³²² Encyclopedia Britannica. (2018). *Treaty | international relations*. [online] Available at: <https://www.britannica.com/topic/treaty> [Accessed 25 Oct. 2018].

³²³ Treaties.un.org. (2011). *List of Multilateral Treaties*. [online] Available at: https://treaties.un.org/doc/source/events/2011/Treaties/treaties_english.pdf [Accessed 25 Oct. 2018].

³²⁴ Humanium • We make children's rights happen. (2018). *Declaration of the Rights of the Child, 1959 - Humanium • We make children's rights happen*. [online] Available at: <https://www.humanium.org/en/declaration-rights-child-2/> [Accessed 26 Oct. 2018].

and on January 26, 1990, the first day the CRC was opened for signature, no less than 61 states parties signed, something of a record for an international treaty. The CRC entered into force in international law on September 2, 1990. “A remarkable feature of the Convention is the near-global ratification it has received.”³²⁵ As of 2015, there were only two countries that had not ratified the Convention, the United States and Somalia. “Somalia ratified the convention in 2015,” leaving the United States the only remaining hold-out to this day.³²⁶

The CRC

“is the first, comprehensive, rights-based international treaty specifically constructed to protect and enhance the position of children ... and a good example of the globalization process as applied in the international legal realm; it signals a worldwide convergence of normative legal standards.”³²⁷

While the practice of FGM is not specifically listed as an abuse, Article 24.3 provides that “States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.”³²⁸ There is an increasingly accepted worldwide interpretation that FGM is an infringement that fits within the broader categories of identified rights articulated in the CRC:³²⁹

- the right to protection from “all forms of discrimination or punishment...irrespective of the child’s or his or her parent’s...religion...beliefs...political or other opinion. (Article 2)
- the right to protection from “all forms of physical or mental violence, injury or abuse... maltreatment or exploitation...while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.” (Article 19)
- the right to protection from “torture or other cruel, inhuman or degrading treatment or punishment.” (Article 37)

The CRC recognizes the role of parents and family in making decisions in the best interests of children but places the ultimate responsibility for protecting the rights of a child in the hands of the government:

³²⁵ Buck, T. (2014) p. 87-88. *International child law*. London: Routledge, Taylor & Francis Group.

³²⁶ UNICEF. (2015). *Joint Statement on Somalia’s Ratification of the Convention on the Rights of the Child*. [online] Available at: https://www.unicef.org/media/media_85718.html [Accessed 20 Sep. 2018].

³²⁷ Buck, T. (2014) p. 88. *International Child Law*. London: Routledge, Taylor & Francis Group.

³²⁸ Ohchr.org. (1990). *Convention on the Rights of the Child*. [online] Available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> [Accessed 20 Sep. 2018].

³²⁹ Ibid

Convention on the Rights of the Child 1990³³⁰

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 19

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. (Section 1) Such protective measures should include effective procedures of prevention and for the identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement. (Section 2)

On December 20, 2012 the United Nations General Assembly adopted Resolution 67/146 reaffirming the Convention on the Rights of the Child as an important contribution to the legal framework for the protection and promotion of the human rights of girls, and recognizing FGM as an irreparable, irreversible abuse that constitutes a serious threat to the health of girls and women; a discrimination that impedes the implementation of legislative and normative frameworks that guarantee gender equality. The resolution is a call to arms of the United Nations system to end female genital mutilations.³³¹ Then again, on December 18, 2014 the United Nations General Assembly adopted Resolution 69/150 “specifically reaffirming the United Nation’s focus on intensifying its global effort for the elimination of FGM.”³³²

³³⁰ Ibid

³³¹ Un.org. (2012) p. 2/6. *United Nations Official Document General Assembly Resolution 67/146*. [online] Available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/67/146 [Accessed 21 Sep. 2018].

³³² Documents-dds-ny.un.org. (2015) Comment 25, p. 6/7 *United Nations General Assembly Resolution Adopted by the General Assembly on 18 December 2014*. [online] Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/705/20/PDF/N1470520.pdf?OpenElement> [Accessed 21 Sep. 2018].

United Kingdom Law

In the United Kingdom, FGM has been a specific criminal offence since the Prohibition of Female Circumcision Act 1985 came into force in September 1985. It was brief and to the point:

Prohibition of Female Circumcision Act 1985 ³³³

1 Prohibition of female circumcision.

- (1) Subject to section 2 below, it shall be an offence for any person—
 - (a) to excise, infibulate or otherwise mutilate the whole or any part of the labia majora or labia minora or clitoris of another person; or
 - (b) to aid, abet, counsel or procure the performance by another person of any of those acts on that other person's own body.
- (2) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both; or
 - (b) on summary conviction, to a fine not exceeding the statutory maximum (as defined in section 74 of the [1982 c. 48.] Criminal Justice Act 1982) or to imprisonment for a term not exceeding six months, or to both.

2 Saving for necessary surgical operations.

- (1) Subsection (1)(a) of section 1 shall not render unlawful the performance of a surgical operation if that operation—
 - (a) is necessary for the physical or mental health of the person on whom it is performed and is performed by a registered medical practitioner; or
 - (b) is performed on a person who is in any stage of labour or has just given birth and is so performed for purposes connected with that labour or birth by—
 - (i) a registered medical practitioner or a registered midwife; or
 - (ii) a person undergoing a course of training with a view to becoming a registered medical practitioner or a registered midwife.
- (2) In determining for the purposes of this section whether an operation is necessary for the mental health of a person, no account shall be taken of the effect on that person of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

3 Extradition etc.

³³³ Legislation.gov.uk. (1985). *Prohibition of Female Circumcision Act 1985*. [online] Available at: <https://www.legislation.gov.uk/ukpga/1985/38/enacted> [Accessed 21 Sep. 2018].

- (1) Offences under section 1 shall be included—
 - (a) in the list of extradition crimes contained in Schedule 1 to the [1870 c.52] Extradition Act 1870; and
 - (b) among the descriptions of offences set out in Schedule 1 to the [1967 c.68.] Fugitive Offenders Act 1967.
- (2) In paragraph 1 of the Schedule to the [1952 c.67] Visiting Forces Act 1952 (offences against the person in the case of which a member of a visiting force is in certain circumstances not liable to be tried by a United Kingdom court), at the end of paragraph (b) there shall be inserted, appropriately numbered, the following paragraph— “() section 1 of the Prohibition of Female Circumcision Act 1985.”.

One explanation of how the law against FGM came about in Great Britain was described not long ago in a letter to the Guardian newspaper in response to an article dated July 25, 2014:³³⁴ ³³⁵

“You rightly point out that it has taken a new generation to advance the campaign against female genital mutilation. In the vanguard of the pioneers of that movement is Louise Panton, who was a young producer during my editorship of *Forty Minutes* (1981-85). Her 1983 film, based in Khartoum, Sudan, was called *Female Circumcision* and was transmitted on BBC 2 on 3 March 1983. Up to that point the subject had been buried in embarrassed silence. Not least in the BBC, which came near to dropping it on the day of transmission on grounds of delicacy. We were told that portrayal of female genitalia on BBC TV was banned. Louise objected strongly and the film was only saved at the eleventh hour by a piece of case-law plucked from the sky by head of programmes Brian Wenham. Realizing female genitalia had to be shown because that was what the programme was about, he devised a compromise. The portrayal of female genitalia could be shown, but only if it was in “an educational context”. On the day of transmission the film was returned to the film editor. As FGM was about to be shown, the film froze to a still-frame and a hastily drawn diagram of the mutilated area was inserted. This was as close to the reality of FGM as was then permitted. The moving film picture later resumed.” — Roger Mills, London³³⁶

The 1985 Act was replaced by the Female Genital Mutilation Act of 2003, which came into force on March 3, 2004. The 2003 Act modernized the offence of FGM by recognizing the coordinated

³³⁴ Topping, A. (2014). *FGM: two young women who woke up world and forced politicians to act*. [online] The Guardian. Available at: <https://www.theguardian.com/society/2014/jul/25/fgm-young-women-fahma-mohamed-jaha-dukureh> [Accessed 21 Sep. 2018].

³³⁵ Berer, M. (2015). The history and role of the criminal law in anti-FGM campaigns: Is the criminal law what is needed, at least in countries like Great Britain?. *Reproductive Health Matters*, [online] 23(46), pp.145-157. Available at: <https://tandfonline.com/doi/full/10.1016/j.rhm.2015.10.001?scroll=top&needAccess=true - T0002>

³³⁶ The Guardian. (2014). *Pioneer in the fight against FGM | @guardianletters*. [online] Available at: <https://www.theguardian.com/society/2014/jul/27/pioneer-in-fight-against-fgm> [Accessed 21 Sep. 2018].

assistance that is required to carry out the practice both in and outside the United Kingdom. Under the Female Genital Mutilation Act of 2003 it is an offense:³³⁷

- for any person, regardless of their nationality or residence status, to perform FGM (Section 1); and
- to assist a girl to carry out the practice on herself (Section 2); or
- to assist a non-UK national or resident to carry out FGM outside the UK on a UK national or permanent UK resident (Section 3).
- Section 4 extends previous Sections 1 – 3 to extra-territorial acts so that it is also an offence for a UK national or permanent UK resident to perform FGM abroad; assist a girl to perform FGM on herself outside the UK; and assist from outside the UK a non-UK national or resident to carry out FGM outside the UK on a UK national or permanent UK resident.³³⁸ These extra-territorial offences are intended to deter people from taking or sending girls abroad for the practice, sometimes referred to as vacation cutting.³³⁹ Vacation cutting is a term used when girls are taken or sent abroad to undergo female genital mutilation. The girls are flown to visit one or both of their parent’s home country and relatives during the summer, where then the girls are subjected to FGM so they can heal over summer vacation without attracting the scrutiny of others, before they return for the next school year.

The 2003 Act also increased the maximum penalty from five to 14 years (Section 5).³⁴⁰ Home Secretary David Blunkett said in a statement to BBC News, at that time:

“No cultural, medical or other reason can ever justify a practice that causes so much pain and suffering. Female genital mutilation is a very harmful practice that is already rightly illegal in this country. Regardless of cultural background, it is completely unacceptable and should be illegal wherever it takes place. The legislation that comes into force today will close a loophole in the previous law by preventing people taking young girls abroad to carry out female genital mutilation and brings us closer to eradicating this practice entirely. Where doctors come across this kind of mutilation, they have a duty to take actions in reporting it but also to help the young people themselves.”³⁴¹

³³⁷ Legislation.gov.uk. (2003). *Female Genital Mutilation Act 2003*. [online] Available at: <https://www.legislation.gov.uk/ukpga/2003/31> [Accessed 21 Sep. 2018].

³³⁸ Assets.publishing.service.gov.uk. (2015). *Serious Crime Act 2015 Fact Sheet*. [online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/416323/Fact_sheet_-_FGM_-_Act.pdf [Accessed 21 Sep. 2018].

³³⁹ The AHA Foundation. (2015). *Vacation Cutting: An Illegal Practice Still Running Rampant - The AHA Foundation*. [online] Available at: <https://www.theahafoundation.org/vacation-cutting-an-illegal-practice-still-running-rampant/> [Accessed 21 Sep. 2018].

³⁴⁰ Legislation.gov.uk. (2003). *Female Genital Mutilation Act 2003*. [online] Available at: <https://www.legislation.gov.uk/ukpga/2003/31> [Accessed 21 Sep. 2018].

³⁴¹ BBC News (2004). Female Circumcision Act In Force. [online] Available at: http://news.bbc.co.uk/2/hi/uk_news/3528095.stm [Accessed 21 Sep. 2018].

The Serious Crime Act 2015 introduced in June 2014 and passed by Parliament on March 2, 2015, in summary, gives effect to a number of legislative proposals in the Serious and Organized Crime Strategy and “builds on current law to ensure that the National Crime Agency, police and other law enforcement agencies have the powers they need to effectively and relentlessly pursue, disrupt and bring to justice serious and organized criminals. In addition, the 2015 Act includes provisions to strengthen the protection of vulnerable children and others, including those needed to tackle female genital mutilation.”³⁴² Against the background of the Female Genital Mutilation Act 2003, the Serious Crime Act 2015, specific to the protection of children, the following extracts speak to the practice of FGM:³⁴³

- Section 70

Extends the “extra-territorial” reach of the offences so that they apply to “habitual” UK residents. This section amends Sections 3, 4, and 6 of FGM Act 2003.

- Section 71

Grants lifelong “anonymity” to victims. This section amends Section 4 of the FGM Act 2003.

- Section 72

Introduces a new “offence of failing to protect a girl from risk” of FGM. This section amends Sections 3, 4 and 5 of the 2003 FGM Act.

- Section 73

Introduces a civil power to make a “Female genital mutilation protection order” (FGMPO) for the purpose of “protecting a girl against the commission” of FGM. Breach of a FGMPO is a criminal offense. This section amends Section 5 of FGM Act 2003.

- Section 74

Introduces a mandatory reporting duty on those working in “regulated professions” (for example, teachers, social workers and healthcare workers) to “notify police” of the discovery of FGM appearing to “have been carried out on a girl” under the age of 18. This section amends Section 5 of FGM Act 2003.

The introduction of a specific civil law measure for the purpose of protecting a girl against the act of FGM materially strengthens the protection for potential victims by giving a clear pathway to family members and professionals to proactively safeguard children. Applications for a

³⁴² Assets.publishing.service.gov.uk. (2015). *Serious Crime Act 2015 Fact Sheet*. [online] Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/416323/Fact_sheet_-_FGM_-_Act.pdf [Accessed 21 Sep. 2018].

³⁴³ Legislation.gov.uk. (2015). *Serious Crime Act 2015*. [online] Available at: <http://www.legislation.gov.uk/ukpga/2015/9/part/5/enacted> [Accessed 21 Sep. 2018].

FGMPO can be made by the girl to be protected; or, a parent or relative, or a relevant third party such as local authorities; or, any other person with the permission of the court, for example, the police, a social worker or advocate, a healthcare professional, a teacher, a friend or family member.³⁴⁴ A FGMPO can also include terms which relate to conduct which occurs both within and outside of the UK. For example, it is an offence for an individual to arrange, by telephone from their home in England, for their UK national daughter to have an FGM procedure carried out abroad by a foreign national.³⁴⁵ Breach of a FGMPO is a criminal offence and offenders are liable to fines, imprisonment (the maximum penalty for which is 14 years) or both on conviction on indictment; or, fines or imprisonment (the maximum penalty for which is 12 months) or both on summary conviction. In addition to the introduction of the Serious Crime Act 2015 mandatory reporting duty requiring all regulated health and social care professionals and teachers to report 'known' cases of FGM in girls under the age of 18 which they identify in the course of their professional work to the police, in the fall of 2015 the National Health Service (NHS) introduced a complementary recording obligation requiring clinicians "to record on a child's healthcare record that she is potentially at risk of FGM at some point in her childhood/lifetime."³⁴⁶

(P006) *Since the reporting requirement, we now know that there are more cases from border control where they are much more aware now, of girls being taken abroad. But we also know on the ground that there are huge gaps, you hear that people know it's 'the cutting season' and therefore there are girls that go missing from school and they don't always come back. But what we have no idea of is if those are isolated incidences or whether the numbers have gone down or not because of course they've never been recorded in the past so we have no way of knowing, all we can do is work with the victims which is what we've done a lot of, to try and create processes that will actually make it better.*

(P010) *So, with every problem that there is with FGM, there has to be a solution, you can't tell me I'm about to be 'hit by a car' and then tell me to just keep 'standing in the road.' So, if these families from communities that practice FGM have to go back home and they are concerned that their sister or mother, or grandmother, or mother-in-law is going to take the child and mutilate them, they get a protective order before they go. So, whoever touches that child to arrange or perform FGM on that child, who is British, even in Africa, will be prosecuted. For you, I will use an American example, if I am going back home, and I am American, and I tell them if you touch this child the FBI will come for you, they'll panic. Of course, they will not like you as much, they*

³⁴⁴ Content.govdelivery.com. (2015) p. 3. *Female Genital Mutilation Protection Orders*. [online] Available at: http://content.govdelivery.com/attachments/UKMOJ/2015/07/17/file_attachments/408246/FGMPO+-+external+court+guidance+-+July+2015.pdf [Accessed 21 Sep. 2018].

³⁴⁵ Ibid, p. 4.

³⁴⁶ Department of Health - National Health Service (2015) Chapter 5, page 17. *Female Genital Mutilation Risk and Safeguarding - Guidance for Professionals*. London. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/525390/FGM_safeguarding_report_A.pdf [Accessed 3 Sep. 2018]

will call you an infidel, but, it works. The mother gets the protective order on behalf of the child because the child is under age. The mother will go to a place like Forward, and Forward writes a letter to the police, or the court, and then they get the protective order. It's not a long process at all. Sometimes immediately or in 24 hours. In some countries, they have holiday cutting, so when the vacation is coming, like in the summer months or December, they come get the protective order before, just to be safe. Because if as a parent you come back to the UK, and it is discovered your child is mutilated, you will be prosecuted. I do not know how effective a protective order is in general, however, the women that I know and have helped get them, it has worked.

(P006) Years were spent, a lot of effort, lobbying the government around reporting, around the details of the report and trying to get a national program, and so I think the issue probably is that a lot of people are unhappy with the mandatory reporting because they're not convinced that it will actually make a difference. Because it's mandatory of course, in terms of nurses and midwives, if they fail to report then that could be a breach of their NMC standards³⁴⁷ for practice. And, it has taken quite a bit of effort, to get it engaged, to get, in particular GP's, general practitioner, they've had quite a lot of issues about the notion of mandatory reporting, and it's taken quite a long time to get that into place. I'm not unhappy with the law I think it was the right thing to do at the time because we didn't have any other alternative, but it would be better if we had a process whereby everybody recognized how important FGM is and it would be recorded in women's medical notes and we would be able have much better data to allow us to commission services. We're getting better across the UK at commissioning physical services, so where a woman needs physical help either pre or post pregnancy, but, and we're getting better at psychological services although they're still quite scared, but the area that we really haven't developed sufficiently is psycho-sexual services. And we know a lot of women are left with huge amounts of problems, both physical and psycho-sexual when they've been mutilated. All we can do is put in place systems and processes that will try and help to prevent it. We do know that there are more cases from border control where they are much more aware now, of girls being taken abroad. But we also know on the ground that there are huge gaps, you hear that people know it's 'the cutting season' and therefore there are girls that go missing from school and they don't come back. But what we have no idea of is if those are isolated incidences or whether the numbers have gone down or not, because, of course, they've never been recorded in the past so we have no way of knowing, all we can do is work with the victims which is what we've done a lot of, to try and create processes that will actually make it better. We're not going to see the results for years to come, which we're quite accepting of that, there are things you just have to get on and do and try and make a difference.

³⁴⁷ Nmc.org.uk. (n.d.). *The Code for Nurses and Midwives*. [online] Available at: <https://www.nmc.org.uk/standards/code/> [Accessed 22 Sep. 2018].

The language of the law on the practice of FGM is clear, however, the application of the law and its effectiveness remains open to interpretation. It has been more than three decades since FGM was made illegal in the United Kingdom, but there has yet to be a successful prosecution. The first case to go before the courts took place in 2015 against an NHS doctor for sewing up a patient's vagina, known as reinfibulation which amounts to the reinstatement of the previous state of FGM, following the delivery of her first child. "The doctor claimed that immediately after the delivery he began to doubt the reinfibulation procedure that he had performed, however he admitted that he had not read hospital policy and did not realize that what he had done was incorrect."³⁴⁸

(P003) *A few midwives were very close to this case and it was discussed regularly. The doctor opened her up at the delivery and he stitched her back up. This was in 2012 and the doctor was charged in 2014. The case went to court and he got off. The doctor said the patient was bleeding and he had to stitch her up to stop the bleeding. It was very controversial. The attending midwife said to him 'remove those stitches fast' but he did not listen to her. As medical professionals you are meant to do no harm, you are meant to protect. There is stopping the bleeding and there is 'STOPPING THE BLEEDING.' You do not have to close the woman's vagina to stop the bleeding, to arrest the bleeding. We've all had bleeders before and we call for help. The whole case went wrong from the very beginning to be fair. The midwife told him 'do not stitch the patient up,' and when he stitched the patient up, the midwife told him to remove it. He did not listen, so the first midwife escalated it, reported it. Then the patient went to the post-natal ward still stitched up and a second midwife reported it. It is routine, and it is intercollegiate policy to discuss these issues amongst professionals to safeguard both the women and the children. It is policy. More than one person notified the doctor and he did not check policy, he ignored the female midwives. Sadly, inter-professional rivalry gets in the way of care. I have seen doctors do it with midwives as well as surgeons. Doctors have very good lawyers. If this patient had been a white woman, it would have been taken to the end, he would have been convicted. Black folk don't want to cause problems, they're happy to have a doctor. Had it been a white woman the outcome would have been very, very different.*

(P002) *I think the UK was not expecting that an NHS doctor would be the perpetrator. We wanted prosecution of a cutter, someone that was truly a criminal; we wanted it to be a cutter, not a UK doctor. It was shocking for everybody. He's back practicing today. I think, or at least I hope, he's learned his lesson.*

³⁴⁸ Laville, S. (2015). *First FGM prosecution: how the case came to court*. [online] The Guardian. Available at: <https://www.theguardian.com/society/2015/feb/04/first-female-genital-mutilation-prosecution-dhanuson-dharmasena-fgm> [Accessed 23 Sep. 2018].

United States Law

On June 13, 1996 the United States Department of Justice, Review Board of Immigration Appeals awarded asylum to Fauziya Kasinga under Section 208 of the Immigration and Nationality Act, 8 U.S.C. § 1158 (1994). On appeal, the parties agreed that FGM can be the basis for a grant of asylum. The Review Board findings were summarized as follows:

“First, the record before us reflects that the applicant is a credible witness. Second FGM, as practiced by the Tchambra-Kunsuntu Tribe of Togo and documented in the record, constitutes persecution. Third, the applicant is a member of a social group consisting of young women of the Tchambra-Kunsuntu Tribe who have not had FGM, as practiced by that tribe, and who oppose the practice. Fourth, the applicant has a well-founded fear of persecution. Fifth, the persecution the applicant fears is ‘on account of’ her social group. Sixth, the applicant’s fear of persecution is country-wide. Seventh, and finally, the applicant is eligible for and should be granted asylum in the exercise of discretion.”³⁴⁹

The Fauziya Kasinga asylum case set legal precedence that established women fleeing gender-based persecution could be eligible for asylum in the United States, and in this case specifically, fleeing the practice of female genital mutilation. Fauziya Kasinga, co-authored the book of her story titled *Do They Hear You when You Cry*, with Layli Miller Bashir, a student of law at that time, represented Fauziya in her bid for American asylum.³⁵⁰ In 1994, at the age of seventeen, Fauziya fled her country of Togo to the United States after being sold into a marriage by her deceased father’s brother and sister-in-law. Fauziya’s new husband expected her to undergo FGM. Fauziya’s father had been opposed to the practice as was her mother, whose sister had died from the practice, but neither were there to protect her.³⁵¹ Four months and 10 days after her father’s death, in accordance with tribal law, his brother and sister-in-law gave her mother a share of his money – the widow is supposed to get one third – and then evicted her from her own home. Under tribal law, everything that the husband owned upon death becomes the property of the oldest male remaining of the man’s family, which includes houses, vehicles, money...and children. Fauziya “became the property of her Uncle.”³⁵²

December 17, 1994 Fauziya arrived in the United States and was thrown in jail. She remained in prison until her release on April 24, 1996. When Fauziya fled Togo to the United States, she thought she would be taken in by America; she thought she would be safe. Instead, she was

³⁴⁹ Justice.gov. (1996). *Fauziya KASINGA, Applicant File A73 476 695 – Elizabeth, US Department of Justice*. [online] Available at: <https://www.justice.gov/sites/default/files/eoir/legacy/2000/03/28/kasinga7.pdf> [Accessed 22 Sep. 2018].

³⁵⁰ Kassindja, F. and Bashir, L. (1999). *Do They Hear You When You Cry*. 1st ed. New York, N.Y.: Delta Trade Paperbacks.

³⁵¹ *Ibid*, p. 2.

³⁵² *Ibid*, p. 95.

“beaten, teargassed, kept in isolation, trussed up in chains like a dangerous animal, strip-searched repeatedly and forced to live with criminals, even murderers. Why? I had committed no crime and was a danger to no one. I was a refugee seeking asylum, not a convicted criminal. I kept asking myself, why is this happening to me? My teachers in Africa said that America was a great country. It was the land of freedom, where people were supposed to find justice. But I was delivered to a dark corner of America where there was no justice. There was only cruelty, danger, and indifference.”³⁵³

I highlight these sections of Fauziya’s story to emphasize her desperate but courageous act to leave behind a life that was once filled with love of community and family to escape a harmful traditional practice that was being prescribed by extended family and the new husband of a forced marriage. Fauziya believed that an escape to America would ‘protect’ her because she was taught that America is ‘the land of the free and the just.’ What Fauziya learned is what many of us learn, freedom is not free, even in America, it must be fought for. It is amazing how complete is the delusion that American democracy is freedom and justice for all.³⁵⁴ In America, freedom is a given that must be taken. And, justice for all? There is no exact formula for how and when that makes an appearance in America. It is more like the concept of Karma, you may or may not be around to experience it.

September 30, 1996, approximately six months after Fauziya was awarded asylum the United States enacted a statute criminalizing the practice of FGM as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. It reads as follows:

18 U.S.C.A. § 116 (1996)³⁵⁵

(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

(b) A surgical operation is not a violation of this section if the operation is—

- (1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or
- (2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the

³⁵³ Ibid, p. 3.

³⁵⁴ Inspired by Tolstoy’s well-known quote on beauty from *The Kreutzer Sonata*: *It is amazing how complete is the delusion that beauty is goodness.*

³⁵⁵ Legal Information Institute. (1996). *18 U.S. Code § 116 - Female genital mutilation*. [online] Available at: <https://www.law.cornell.edu/uscode/text/18/116> [Accessed 11 Oct. 2018].

place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.

Basically, this statute established the practice of FGM on a minor (any person under the age of 18) as a federal criminal act thereby prohibiting its practice on United States soil. The law precludes any reason and all reasons that can be created or given by anyone seeking pardon for the practice, including those customarily provided by adherents of FGM which are included in Chapter **Oppression: silence and silencing**, by its broad and general yet specific reference to ‘any belief’ in Section (c) which translates in summary to: Whoever knowingly commits FGM on a minor for any reason including but not limited to any belief that the act is a religious or cultural custom or ritual, will be subject to a fine of an undetermined amount or not more than five years in prison, or both. The only exception is provided for in Section (b) which qualifies medically necessary procedures by licensed professionals only.

Congressional Findings is the title of a document that usually accompanies federal legislation, the purpose of which is for Congress to provide a clear and sufficient description of what an act or law embodies. The utility of Congressional Findings is witnessed in many legal arguments linking regulation to behavior as factual support or challenge of the conduct under consideration. Following are the Congressional Findings that accompanied the September 30, 1996 law criminalizing FGM:

- (1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;
- (2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;
- (3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;
- (4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;
- (5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the first amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I,³⁵⁶ the necessary and proper clause, section 5 of the fourteenth Amendment,³⁵⁷ as well as under the treaty clause, to the Constitution to enact such legislation.³⁵⁸

The specific content and context of Congressional Finding number (5) link regulation to one of the primary arguments for conducting this research: a startling public knowledge deficit of the Constitution. In my introductory remarks in Chapter 1, I relay opinions shared with me by many highly educated professionals that FGM is a practice protected by the freedom of religion clause in the United States Constitution. The articulation in number (5) clearly contradicts these shared opinions. I will briefly summarize the First Amendment and link regulation to the conduct under consideration, FGM:

United States Bill of Rights: Amendment 1 (Ratified 1791)³⁵⁹

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The meaning of the First Amendment has been the subject of debate since its inception. I will break it down into three sections in keeping with the independent nature of each within the unified concept of all: Freedom ‘from an establishment of religion’ and ‘freedom of expression’ thereof.

1. The First Amendment prohibits government from respecting ‘an establishment’ of religion or prohibiting people from the free ‘exercise’ of religion. This includes two separate but related positions:

(a) The first position prohibits federal legislation from respecting ‘an establishment’ of religion. This is taken to mean that the government will not respect, give preference to or specifically protect an organization of religious belief; an establishment of religion, such as Catholic, Jewish, Muslim, Hindu, etc. It is also taken to mean that the

³⁵⁶ Under Article I, Section 8 of the Constitution, Congress has the power "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or any Department or Officer thereof" https://www.law.cornell.edu/wex/necessary_and_proper_clause

³⁵⁷ The fourteenth amendment guarantees US citizens equal protection under the laws of the United States. Section 5 expressly authorizes Congress to enforce the Fourteenth Amendment "by appropriate legislation." See <https://www.law.cornell.edu/constitution/amendmentxiv>

³⁵⁸ Legal Information Institute. (1996). *18 U.S. Code § 116 - Female genital mutilation*. [online] Available at: <https://www.law.cornell.edu/uscode/text/18/116> [Accessed 11 Oct. 2018].

³⁵⁹ National Archives. (1789) First Amendment. *The Bill of Rights: A Transcription*. [online] Available at: <https://www.archives.gov/founding-docs/bill-of-rights-transcript> [Accessed 11 Oct. 2018].

government will not establish a religion as a preferred or as an official belief system for the nation. This position serves as the precursor to the second position;

(b) The second position prohibits government from interfering in the free *expression* of religion. Although the first position “does not expressly speak in terms of freedom to hold such beliefs as one chooses, but in both religion and expression positions, it is clear, freedom of belief is the foundation of the liberty to practice what religion one chooses and to express oneself as one chooses.”³⁶⁰ Freedom of choice and expression.

The First Amendment protects the choice of belief or the choice of no belief, and your expression of it, but does not protect the establishment (organization or system) of belief. Free exercise translates to how you express yourself if and when you choose to. If you choose to have a belief system, or don't; if you go to church, synagogue, mosque, temple or don't, you are protected. If you wear a Christian cross, or don't; if you wear a Star of David or don't; if you wear clerical clothing such as cassocks, habits, robes, head coverings and other vestments or don't, you are protected. Belief itself is not protected because belief is too amorphous. Belief could mean anything to anyone. Everyone could claim anything as a religious belief and demand that it be protected. The right to believe, or not, is protected. Expressions of that belief are protected ‘except those that provoke actions that invoke harm on others’ (see #2 below). The belief itself is not protected by the First Amendment. It is not that belief is not permitted or prohibited, it simply means that the Constitution does not protect a specific belief.

2. Freedom of expression also provides for freedom of speech which gives people the right to express themselves without having to worry about government interference. However, some expressions are not protected such as those that provoke actions that would harm others, the most popular example cited is ‘shouting fire in a crowded theater.’ Freedom of expression also allows people to express themselves through publication also known as freedom of the press.

3. Freedom of expression also protects the freedom to peacefully assemble or gather together or associate with a group of individuals for social, economic, political or religious purposes, or in protest of the government. Freedom of expression also protects the right to petition, sign a petition, or file a lawsuit against the government commonly referred to as the right of redress.

In my opinion, with respect to the above summary, both Congressional Finding number (5) and specific sections of the First Amendment of the United States Constitution, grant protection through prohibition of the act of FGM: 1(a) protection from an establishment of religion; and, (2)

³⁶⁰ Constitution.Findlaw.com. (2018). *First Amendment*. [online] Available at: <https://constitution.findlaw.com/amendment1/annotation11.html/-t171> [Accessed 11 Oct. 2018].

protection from expressions that provoke actions that invoke harm on others. With respect to the First Amendment to the Constitution of the United States, both the government and the people are protected 'FROM' religion. Freedom 'OF' religion, itself, is not protected in the Constitution. To believe or not to believe is one of the unlimited liberties/choices of democracy whereby individuals govern themselves. The countless liberties that comprise rights not specifically presented, protected or prohibited in the Constitution are those that are left to the people. Only when an individual engages in a Constitutionally protected activity such as expression or the practice of religion then the expression and practice (activity/action) and not belief itself are governed by the Constitution. Therefore in 1996 under the First Amendment of the Constitution of the United States, Congress prohibited an establishment of religion or culture from being given preference under the law, and the particular expression of FGM became prohibited.

On January 2, 2013, the 1996 federal law was amended (Section (d)) to prohibit what was referred to earlier as 'Vacation Cutting':

18 U.S. Code §116 (2013) ³⁶¹

SEC. 1088. TRANSPORT FOR FEMALE GENITAL MUTILATION

(d) Whoever knowingly transports from the United States and its territories a person in foreign commerce for the purpose of conduct with regard to that person that would be a violation of subsection (a) if the conduct occurred within the United States, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

Multiple federal statutes accompany these laws that provide notification and communication requirements of other federal agencies.³⁶² An example is Statute 8 USCA § 1374 which requires the Immigration and Naturalization Service (in cooperation with the Department of State) to make certain information available to aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of their entry into the United States,³⁶³ including information "on the severe harm to physician and psychological health caused by FGM"; and "information concerning potential legal consequences in the United States for performing FGM" or "allowing a child under his or her care to be subjected to FGM."³⁶⁴ This information is provided in the form of a U.S. government issued document entitled Fact Sheet on Female Genital Mutilation or

³⁶¹ Legal Information Institute. (1996). *18 U.S. Code § 116 - Female genital mutilation*. [online] Available at: <https://www.law.cornell.edu/uscode/text/18/116> [Accessed 11 Oct. 2018].

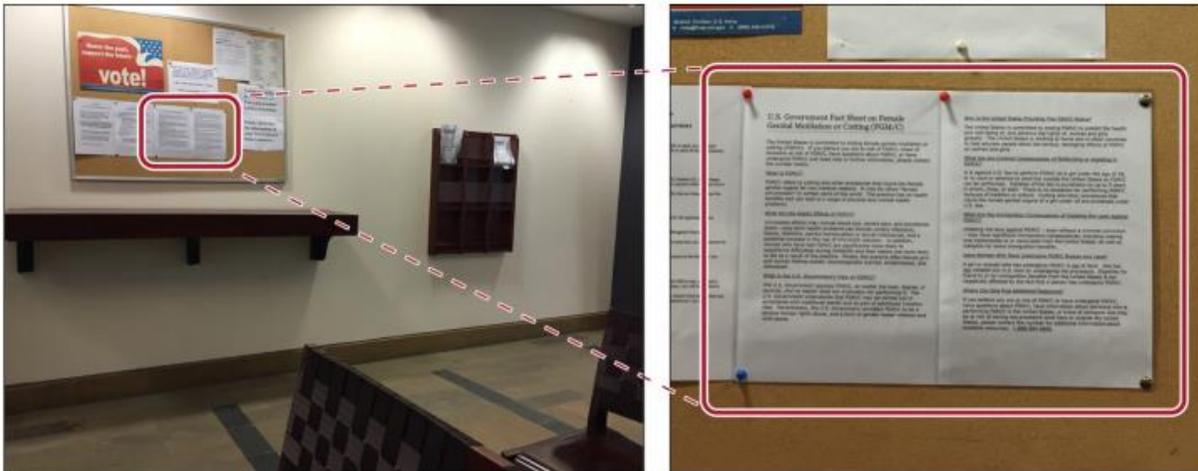
³⁶² See Appendix marked *Federal Statutes*

³⁶³ Per the US Customs and Border Protection website, An immigrant visa (IV) is issued to a person wishing to live permanently in the U.S., while a nonimmigrant visa (NIV) is issued to a person with permanent residence outside the United States, but wishes to be in the U.S. on a temporary basis. See https://help.cbp.gov/app/answers/detail/a_id/72/~/-/what-is-the-difference-between-an-immigrant-visa-vs.-nonimmigrant-visa-%3F

³⁶⁴ LII / Legal Information Institute. (1996). *8 U.S. Code § 1374 - Information regarding female genital mutilation*. [online] Available at: <https://www.law.cornell.edu/uscode/text/8/1374> [Accessed 3 Sep. 2018].

Cutting FGM/C.³⁶⁵ These same concepts are reflected in the United States Foreign Affairs Manual requiring that all Posts provide copies of the FGM/C Fact Sheet translated in the local language of immigrant visa recipients and display the FGM/C Fact Sheet translated to the local language in the nonimmigrant visa waiting room. A drastic flaw of the notice requirement is that a written hard copy of the fact sheet be provided directly to immigrant visa (IV) recipients but it is merely posted in a waiting area for nonimmigrant visa (NIV) recipients. A 2016 report from the United States Government Accountability Office estimates that NIV recipients outnumber IV recipients 5 to 1.³⁶⁶ Below is a photograph of the fact sheet displayed at the Post in Tanzania.³⁶⁷

Figure 3: The “U.S. Government Fact Sheet on Female Genital Mutilation or Cutting” on Display in Waiting Area at the Post in Tanzania, March 8, 2016



Source: GAO. | GAO-16-645

As demonstrated above, the requirement that the fact sheet be posted in the waiting area is essentially useless.

There is legislation currently pending entitled Stopping Abusive Female Exploitation (SAFE) Act.³⁶⁸ This Act would increase the imprisonment penalty for FGM from 5 years to 15 years. It was introduced to Congress in July 2017 and passed by the House of Representatives in December 2017, however, it remains in the Senate today yet to be passed into legislation.³⁶⁹

In the United States, a federal crime or federal offense is an act that is made illegal by U.S. federal legislation, therefore, the 1996 law and subsequent amendments are federal laws. There

³⁶⁵ Uscis.gov. (2018). *U.S. Government Fact Sheet on Female Genital Mutilation or Cutting FGM/C*. [online] Available at: https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Special_Situations/FGM_Notice_-_English.pdf [Accessed 15 Oct. 2018].

³⁶⁶ Gao.gov. (2016) p. 28. *Female Genital Mutilation/Cutting*. [online] Available at: <https://www.gao.gov/assets/680/678098.pdf> 14 Oct. 2018].

³⁶⁷ Ibid, p. 28.

³⁶⁸ Congress.gov. (2018). *SAFE ACT - All Info - H.R.3317 - 115th Congress (2017-2018): SAFE Act of 2017*. [online] Available at: <https://www.congress.gov/bills/115th-congress/house-bill/3317/all-info> [Accessed 16 Oct. 2018].

³⁶⁹ Ibid

are two fundamental levels of laws in the United States legal system: federal and state law. A federal law applies to the United States as a whole nation and also to each and all of the currently 50 states it comprises, so, when Congress passed the federal law prohibiting FGM it became illegal at both the national and state level. In the United States, there is a dual sovereignty doctrine whereby the government of the United States and each of the currently 50 states may enact their own laws and prosecute crimes pursuant thereto, provided there is no prohibition by the Constitution of the United States. In the United States if there is both a federal law and a state law governing all or any aspect of an alleged crime, then both have the right to prosecute the defendant(s) separately and exact each their own judgements accordingly. The dual sovereignty doctrine allows the double prosecution of a person by a federal and a state law when they both exist and allows the double prosecution of a person by more than one state for the same crime where both have jurisdiction for the prosecution, notwithstanding the double jeopardy clause in the Constitution. However, if a federal law and state law exist and there is any conflict between the two, the federal law prevails, this is called the supremacy clause which is also addressed in the Constitution. An example of this dual sovereignty clause is a struggle that is taking place currently between the states' legal systems and the federal legal system over the use of medical marijuana. Despite various medical marijuana laws that have legalized it in 30 of the 50 states,³⁷⁰ federal law still treats it like every other controlled substance which basically means that doctors may not prescribe marijuana for medical use under federal law. In response to the entrenchment between the two, Congress approved a 2014 budget amendment that prohibits the Justice Department from using funds to interfere with the States medical marijuana laws, stating that such focus and activities were not a priority. Congress did not change the law, they just invoked a temporary restriction on the use of prosecutorial funds. This act by Congress was an attempt to quiet the battleground between the feds and the states, however, it was a temporary constraint on budgets that expired on September 30, 2018. As of today, there remains a conflict between federal and some state laws regarding the legal and or illegal use of marijuana.

In addition to the federal law prohibiting FGM, 26 of the 50 states in the United States have passed laws over the past 20+ years making FGM a criminal act at the state level. Last year following the FBI arrests in the state of Michigan, the case I referenced earlier where a licensed physician allegedly performed over 100 cases of FGM on young girls, Michigan quickly passed a law against FGM. The 2017 Michigan law comprises 13 separate bills — Public Acts 68-79 and 81 of 2017 — that became what is now one of the most comprehensive laws in the United States today wherein the following represents difference:^{371 372}

³⁷⁰ Robinson, M., Berke, J. and Gould, S. (2018). *States Where Marijuana is Legal*. [online] Business Insider. Available at: <https://www.businessinsider.com/legal-marijuana-states-2018-1> [Accessed 16 Oct. 2018].

³⁷¹ Michigan.gov. (2017). *Snyder - Gov. Rick Snyder signs legislation heightening penalties for those convicted of performing female genital mutilation*. [online] Available at: <https://www.michigan.gov/snyder/0,4668,7-277--426061--00.html> [Accessed 16 Oct. 2018]

³⁷² WJBK. (2017). *Michigan cracks down on female genital mutilation with 13 new laws*. [online] Available at: <http://www.fox2detroit.com/news/local-news/michigan-cracks-down-on-female-genital-mutilation-with-13-new-laws> [Accessed 16 Oct. 2018].

- FGM is a state felony in Michigan and an act that now carries a maximum sentence of 15-years imprisonment. (Michigan Penal Code 750.136 (4))³⁷³
- The states are the licensing authority for clinicians in the United States, (doctors, nurses, etc.), and the law allows the state to permanently revoke the license of any clinician who is convicted of conducting FGM. (Michigan Penal Code 750.136 (6))³⁷⁴
- Allows victims to seek criminal indictments up to 10 years after the crime or until they are 28 years old, whichever is later. This allows the victim to pursue a civil lawsuit against the perpetrators including the parent/s. (2017 Michigan Public Acts 76, 79)³⁷⁵
- If a parent is convicted, whether their own child is involved (including facilitating the transport), or they assisted in the FGM of another person's child, the parent can lose parental rights to all of the parent's children (not just the child on whom FGM was performed). (2017 Michigan Public Acts 69, 71, 72, 73, 74, 75, 81)³⁷⁶
- Requires the Michigan Department of Health and Human Services to develop an educational outreach program informing the public of FGM as a crime and the penalty consequences. (2017 Michigan Public Act 77)³⁷⁷

According to the Department of Homeland Security, protection from FGM is most commonly provided through the asylum process, where individuals must demonstrate that they have been persecuted or fear persecution in their home country on account of protected grounds such as religion or nationality. "While FGM has been a crime under federal and many state laws, for decades, law enforcement officials have identified few investigations related to FGM."³⁷⁸ The laws are by and large invoked as, and remain to this day, immigration laws. In the 22 years since the passage of the 1996 law prohibiting FGM in the United States, the state of Michigan case referenced earlier is the first of its kind to undergo legal prosecution in the United States.

³⁷³ Legislature.mi.gov. (2017). *Michigan Legislature - Section 750.136*. [online] Available at: [http://www.legislature.mi.gov/\(S\(kj0lvad2u0d2citn21hsenof\)\)/mileg.aspx?page=getObject&objectName=mcl-750-136](http://www.legislature.mi.gov/(S(kj0lvad2u0d2citn21hsenof))/mileg.aspx?page=getObject&objectName=mcl-750-136) [Accessed 16 Oct. 2016].

³⁷⁴ Ibid

³⁷⁵ Michigan.gov. (2017) p. 8. *Michigan Register - Issue No. 19 – 2017 (Published November 1, 2017)*. [online] Available at: https://www.michigan.gov/documents/opt/MR19_110117_604899_7.pdf [Accessed 16 Oct. 2018].

³⁷⁶ Ibid, p.p. 8 and 9.

³⁷⁷ Ibid, p. 8.

³⁷⁸ Gao.gov. (2016) Section: What GAO Found. *Female Genital Mutilation/Cutting*. [online] Available at: <https://www.gao.gov/assets/680/678098.pdf> 14 Oct. 2018].

Child abuse laws in general, and inalienable rights in the United States

As can be seen from above and to which I draw attention below, the case of FGM surfaces the contradictions and gaps between legislation, legislation application and practices in all cases of child abuse because FGM is fundamentally a grievous, coercive act against a vulnerable child, child as defined by the law. Fighting for the rights of the child prone to FGM is also fighting for the rights of female children and children generally prone to coercive and grievous abuse within my country where there is a chance of making a difference within the context of existing legislation.

Child Abuse

The Federal government has some laws meant to protect children in general from forms of abuse and neglect. These laws include minimum child welfare standards to which the states are required to conform such as those included in the Child Abuse Prevention and Treatment Act (CAPTA). “The basis for government’s intervention in child abuse, or maltreatment, is grounded in the concept of ‘*parens patriae*,’ a legal term that asserts that government has a role in protecting the interests of children and in intervening when parents fail to provide proper care.”³⁷⁹ Blacks Law Dictionary provides the following definition:

“*Parens patriae* [Latin “parent of his/her country”] The state regarded as a sovereign; the state in its capacity as provider of protection to those unable to care for themselves. A doctrine by which a government has standing to prosecute a lawsuit on behalf of a citizen esp. on behalf of someone who is under a legal disability to prosecute the suit. The state ordinarily has no standing to sue on behalf of its citizens, unless a separate, sovereign interest will be served by the suit. Also termed doctrine of *parens patriae*.”³⁸⁰

In 1974 CAPTA was enacted becoming the key legislation addressing child abuse and neglect in the United States. CAPTA has been amended several times since including most recently with the Justice for Victims of Trafficking Act of 2015 and the Comprehensive Addiction and Recovery Act of 2016.³⁸¹ “CAPTA provides federal funding to states in support of prevention, assessment, investigation, prosecution, and treatment activities and also provides grants to public agencies and nonprofit organizations, for demonstration programs and projects.”³⁸² CAPTA provides general definitions of child abuse in Section 3 of the Act:

³⁷⁹ Black's Law Dictionary. (2014) p. 1287. 10th ed. United States, America: Thomson Reuters.

³⁸⁰ Ibid

³⁸¹ Acf.hhs.gov. (2010). *The Child Abuse Prevention and Treatment Act*. [online] Available at: <https://www.acf.hhs.gov/sites/default/files/cb/capta2010.pdf> [Accessed 16 Oct. 2018].

³⁸² Childwelfare.gov. (2017). *About CAPTA: A Legislative History - Child Welfare Information Gateway*. [online] Available at: <https://www.childwelfare.gov/pubs/factsheets/about/> [Accessed 16 Oct. 2018].

**Child Abuse Prevention and Treatment Act
as Amended by P.L. 111-320, the CAPTA Reauthorization Act of 2010**³⁸³
SEC. 3. GENERAL DEFINITIONS

In this Act—

1. the term ‘child’ means a person who has not attained the lesser of—
 - A. the age of 18; or
 - B. except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;
2. the term ‘child abuse and neglect’ means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.

Where 24 of the 50 states in the United States lack state law prohibiting FGM, the 1996 federal law and its subsequent amendments ‘stand-in’ in their absence, a prohibition that states must follow; also, CAPTA foundationally provides a minimum standard in accordance with the above definitions of child abuse that each state must follow. For example, the state of Connecticut does not have a law specifically prohibiting FGM at the state level, but residents and authorities of Connecticut are obligated to follow the federal prohibition. The state of Connecticut does however, have a definition of ‘Abused’ in the state’s child abuse law that directionally, although not specifically, includes the practice of FGM by its reference to physical injury that is achieved by “other than accidental means”:³⁸⁴

Conn. Gen. Stats. § 46b-120(7) (2017)³⁸⁵

- A child or youth may be found “abused” who (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment.

Inalienable Rights

It was my belief in my inalienable rights as articulated in the Declaration of Independence (DOI) of the United States that gave life to my plan to escape my parent’s tyranny. My independence, my self-agency and the freedom and liberty to seek and develop a personal autonomy from their

³⁸³ Acf.hhs.gov. (2010) p. 6. *The Child Abuse Prevention and Treatment Act*. [online] Available at: <https://www.acf.hhs.gov/sites/default/files/cb/capta2010.pdf> [Accessed 16 Oct. 2018].

³⁸⁴ Jud.ct.gov. (2017). *Child Abuse and Neglect in Connecticut*. [online] Available at: <https://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/ChildAbuseandNeglect/childabuse.pdf> [Accessed 16 Oct. 2018].

³⁸⁵ Cga.ct.gov. (2017). *Chapter 815t - Juvenile Matters*. [online] Available at: https://www.cga.ct.gov/current/pub/chap_815t.htm#sec_46b-120 [Accessed 16 Oct. 2018].

rule and others who would attempt to rule me has been my life-long, ever present mission. However, what I did not understand, ‘what I did not know,’ is that the ‘unalienable rights’ referenced in the Declaration of Independence is not part of legislation per se, it is simply a declaration:

“We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—”³⁸⁶

The DOI is the equivalent of a mission statement, and as I noted earlier ‘another type of document stating agreed upon standards, crafted and negotiated by many parties but which is not in and of itself, legally binding.’ It is a declaration whereby the United States promises to its inhabitants and broadcasts to other nations in eloquent and emotive words that its democracy upholds the ‘inalienable rights’ of citizens. As experienced by myself and many others, including Fauziya Kassinga, prolific violence against children and the lack of protection through ineffective legislation and its equally ineffective implementation is witness to the distortion of the declaration into a lie. In my research I found that the term ‘unalienable rights’ and ‘inalienable rights’ are used interchangeably and that their meaning does not change with the spelling. However, research shows that in the final draft of the DOI edited by Congress, the word inalienable was inadvertently changed to unalienable by a copyist. The word unalienable in the DOI is a typo. There is much depth of discourse using the terms human rights, natural rights, and universal rights, but very little using the phrase inalienable rights. The international community regularly uses the phrases human rights and natural rights interchangeably, and although the 1948 creation of the United Nations’ Universal Declaration of Human Rights preamble included the phrase ‘inalienable rights,’ it appears to be a one-time use “inspired by its contributor Eleanor Roosevelt, First Lady of the United States at that time, who chaired the drafting committee.”³⁸⁷ In the United States the phrases absolute rights, inherent natural rights, natural rights, and private rights are frequently used interchangeably. In relation to the legislation and rights context of this research, the only other reference I found to unalienable rights in a United States legal document beyond that of the DOI is in a decision handed down by the Supreme Court, the case of *Troxel v. Granville* 530 U.S. 57 (2000).³⁸⁸ Briefly, the case involved grandparents petitioning for the right to visit their deceased son’s daughters. The girls’ mother objected to the amount of visitation time sought by the grandparents and the state’s superior court had ordered more visitation than the mother desired so the mother appealed. The case was ultimately referred to and accepted by the Supreme Court for review. The Supreme Court found that the case was “an unconstitutional

³⁸⁶ National Archives. (1776) second paragraph. *Declaration of Independence: A Transcription*. [online] Available at: <https://www.archives.gov/founding-docs/declaration-transcript> [Accessed 10 Sep. 2018].

³⁸⁷ Un.org. (2018). *History of the Document*. [online] Available at: <http://www.un.org/en/sections/universal-declaration/history-document/index.html> [Accessed 26 Oct. 2018].

³⁸⁸ Rossum, R. and Tarr, G. (2017) p. 755. *American Constitutional Law*. 1st ed. Boulder: Westview Press.

infringement” on the mother’s “fundamental right to make decisions concerning the custody and control of her children.”³⁸⁹

The Supreme Court comprises nine justices, three authored the judgement, three concurred in the judgement, and three dissented. Justice Scalia, dissenting, wrote:

“In my view, a right of parents to direct the upbringing of their children is among the “**unalienable Rights**” with which the Declaration of Independence proclaims, “all Men . . . are endowed by their Creator.” And in my view that right is also among the “othe[r] [rights] retained by the people” which the Ninth Amendment says the Constitution’s enumeration of rights “shall not be construed to deny or disparage.” The Declaration of Independence, however, is not a legal prescription conferring powers upon the courts; and the Constitution’s refusal to “deny or disparage” other rights is far removed from affirming any one of them, and even farther removed from authorizing judges to identify what they might be, and to enforce the judges’ list against laws duly enacted by the people. Consequently, while I would think it entirely compatible with the commitment to representative democracy set forth in the founding documents to argue, in legislative chambers or in electoral campaigns, that the state has no power to interfere with **parents’ authority** over the rearing of their children, I do not believe that the power which the Constitution confers upon me as a judge entitles me to deny legal effect to laws that (in my view) infringe upon what is (in my view) that unenumerated right. . . .”³⁹⁰

Justice Scalia’s dissent is not in disagreement with the outcome per se; he disagrees with the use of the Constitution as the means to adjudicate a case whose very materiality is not governed by the Constitution. Justice Scalia believed that the case should have been rejected, not accepted by the Supreme Court for review in the first place; that it was not a matter for Constitutional law.

To summarize the key points of Scalia’s dissent in context with this research, ‘the right of parents to direct the upbringing of their children’ is among ‘parent’s ‘unalienable rights’ which the DOI proclaims are ‘endowed by their Creator.’ And that that right is also among those referenced in the Ninth Amendment of the Constitution as ‘other rights retained by the people’ and that the presence of rights in the Constitution shall not be construed to deny or disparage ‘these other rights retained by the people.’ Furthermore, the DOI is not a legal prescription conferring rights into the Constitution or powers upon the courts.

A key to understanding inalienable rights as distinguished from ordinary alienable rights is found in one of Thomas Jefferson’s rough drafts of the Declaration of Independence:³⁹¹

³⁸⁹ Ibid, p. 756.

³⁹⁰ Ibid, p. 757 – 758.

³⁹¹ Civiced.org. (n.d.). *Terms to Know*. [online] Available at: <http://www.civiced.org/resources/curriculum/911-and-the-constitution/terms-to-know> [Accessed 17 Oct. 2018]

“We hold these truths to be self-evident: that all men are created equal; that they are endowed by their creator with inherent and certain inalienable rights; that among these are life, liberty and the pursuit of happiness...”³⁹²

Shortly before Jefferson wrote these words, the State of Virginia Declaration of Rights stated:³⁹³

“That all men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.”³⁹⁴

³⁹⁵

The similarity of the passage in the Virginia Declaration and Jefferson’s rough draft is readily apparent.³⁹⁶

- The Virginia Declaration defines ‘inherent rights’ as those that ‘all men cannot.... divest their posterity...’
- Jefferson’s rough draft states that ‘all men...are endowed...with inherent and certain inalienable rights...among these are life...’

The key words in the two statements are ‘inherent, cannot and inalienable.’ The dictionary provides the following:

- Inherent: existing in something as a permanent, essential, or characteristic attribute; vested in (someone) as a right or privilege.³⁹⁷
- Cannot: can not. The word is a contraction.³⁹⁸

³⁹² Jefferson Writings: Autobiography; Notes on the State of Virginia! Public and Private Papers; Addresses; Letters. (2011) p. 19. New York: THE LIBRARY OF AMERICA.

³⁹³ Civiced.org. (n.d.). *Terms to Know*. [online] Available at: <http://www.civiced.org/resources/curriculum/911-and-the-constitution/terms-to-know> [Accessed 17 Oct. 2018]

³⁹⁴ National Archives. (2016). *The Virginia Declaration of Rights*. [online] Available at: <https://www.archives.gov/founding-docs/virginia-declaration-of-rights> [Accessed 16 Oct. 2018].

³⁹⁵ History.org. (2018). *Virginia Declaration of Rights by George Mason*. [online] Available at: <http://www.history.org/almanack/life/politics/varights.cfm> [Accessed 26 Oct. 2018].

³⁹⁶ Civiced.org. (n.d.). *Terms to Know*. [online] Available at: <http://www.civiced.org/resources/curriculum/911-and-the-constitution/terms-to-know> [Accessed 17 Oct. 2018].

³⁹⁷ Google.com. (2018). *inherent*. [online] Available at: <https://www.google.com/search?client=safari&rls=en&q=inherent&ie=UTF-8&oe=UTF-8> [Accessed 17 Oct. 2018].

³⁹⁸ Oxford Dictionaries | English. (2018). *cannot | Definition of cannot in English by Oxford Dictionaries*. [online] Available at: <https://en.oxforddictionaries.com/definition/cannot> [Accessed 17 Oct. 2018].

- Inalienable: unable to be taken away from or given away by the possessor.³⁹⁹

These key words and the authors' intentional use in declaratory context provide the understanding required to effectively articulate their meaning in context to this research. The Virginia Declaration defines 'inherent rights as those that all men cannot...divest their posterity.' The rights Jefferson calls both inherent and inalienable are those that 'we cannot give away, or those that cannot be taken from us because they exist in us; they are an essential attribute to our being.' Inalienable possession is a type of possession in which a noun is obligatorily possessed by its possessor. Nouns in an inalienable possession relationship cannot exist independently or be alienated from their possessor. For example, a female's genitalia imply someone's genitalia even if it is severed from the whole body. Inalienable nouns include body parts such as genitalia which is necessarily someone's genitalia. In the context of human rights, or more specifically to this research, children's rights, the alienable and inalienable distinction is of critical importance to an estimated 25% of the population of the United States: its "74.2 million children."⁴⁰⁰

Inalienable rights, although not enumerated in detail anywhere in legislation, are fundamental to the foundation of human rights as they imply the inherent nature of the possession of self and one's body and all of its parts, taxonomically so to speak, that cannot be taken away or given away because they exist in each of us (a physical congenital integration) and with each of us as an essential attribute of our being. Diana Meyers puts forth four inalienable rights which in context to child abuse in general and FGM specifically, can be considered inalienable rights for children in her book *Inalienable Rights, A Defense*:⁴⁰¹

1. "The right to life. This right prohibits others from killing the right-holder and allows the right-holder to defend" herself if she "is attacked."⁴⁰²
2. "The right to personal liberty." This right "protects right-holders from being forced to execute another person's dictates." Attempted violations "involve a command accompanied by a threat of harm or by a sample infliction of harm of a degree of fearfulness such that" would expect a right-holder to "submit" and her "refraining from submitting," if she "does refuse to comply, requires that" she "marshal greater volitional stamina than most people have at their disposal."⁴⁰³

³⁹⁹ Google.com. (2018). *inalienable* - Google Search. [online] Available at:

<https://www.google.com/search?client=safari&rls=en&q=inalienable&ie=UTF-8&oe=UTF-8> [Accessed 17 Oct. 2018].

⁴⁰⁰ The Changing Child Population of the United States: Analysis of Data from the 2010 Census. (2011) p.1. The Annie E. Casey Foundation. <https://www.aecf.org/m/resourcedoc/AECF-ChangingChildPopulation-2011-Full.pdf> [Accessed 17 Oct. 2018]

⁴⁰¹ Meyers, D. (1985). *Inalienable Rights, A Defense*. 1st ed. New York: Columbia University Press.

⁴⁰² Ibid, p. 53 – 54.

⁴⁰³ Ibid, p. 53, 55, 57.

3. “The right to benign treatment...the right not to suffer acute gratuitous pain.” This “forbids” torture and “assault.” This also forbids “withholding analgesics when acute pain can be relieved or, the cure for the cause of the pain.”⁴⁰⁴

4. “The right to satisfaction of basic needs...this right provides for adequate food, water, clothing, shelter and medical treatment for survival and thereby protects right-holders from certain types of deprivation.”⁴⁰⁵

Unfortunately, like most legislation, Meyers specifically excludes children from qualifying for her concept of inalienable rights because she posits that children are a group that are not held morally responsible. My interpretation of inalienable rights as intended by the founding fathers of the United States is something that we are born with, not something we earn through moral training as posited by Meyers. I concur with Meyers development and articulation of inalienable rights but not its exclusive assignment to the ‘morally responsible.’ It is my thesis that all humans, including children, are born with inalienable rights and given the vulnerable position of children in context with the endemic child abuse in the United States, such inalienable rights for children must be a guiding principle enshrined in the Constitution of the United States for all to acknowledge and abide.

⁴⁰⁴ Ibid, p. 53, 62, 63.

⁴⁰⁵ Ibid, p. 53, 62, 63.

6. Findings

I will briefly summarize the purpose of this research to introduce the findings:

- To perform an education function that increases awareness; surface assumptions making them visible for questioning; discover opportunities for new ways of seeing and doing things; persuade myself and the reader with discoveries in the hope that they can offer something of value to each our own long held positions;
- To contribute to an understanding of inalienable rights of children as people, inexistence of their parents that then contribute to changes in how the United States views these rights in the contexts of how they are contravened in practice through such harmful cultural traditions as FGM and the hidden and explicit practice of child abuse generally;
- To answer the questions I started out with:
 - What are the reasons behind the failure of the U.S. to not only prevent the increase to the number of girls that are subjected to the practice of FGM, but to also decrease the numbers and eliminate the practice?
 - What are the gaps between U.S. legislation and the failure to safeguard children from this harmful violation and child abuse in general?

I have categorized and organized a summary of main findings in keeping (where practical) with the consensus of themes voiced by the participants and organized by the participants' primary professional roles (Tables 3 and 4, pages 43 – 52). I have also included some antenarrative text with each to keep them in context with the education function of this research.

What is FGM?

‘Female genital mutilation (FGM) comprises all procedures that involve the partial or total removal of external genitalia or other injury to the female genital organs for non-medical reasons. The procedure has no known health benefits. Moreover, the removal of or damage to healthy genital tissue interferes with the natural functioning of the body and may cause several immediate and long-term health consequences. Girls and women who have undergone FGM are therefore at risk of suffering from its complications throughout their lives. In addition, FGM violates a series of well-established human rights principles, including the principles of equality and non-discrimination on the basis of sex, the right to life when the procedure results in death, and the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, as well as the rights of the child.’⁴⁰⁶

⁴⁰⁶ Stein, K. and Chou, D. (2016) *WHO Guidelines on the Management of Health Complications from Female Genital Mutilation*, p. viii, *Executive Summary*, Geneva: WHO Library Cataloguing-In-Publication

The voices of the law

- In the United States, FGM has been a specific criminal offense since a Federal law prohibiting its practice came into force in 1996. The Centers for Disease Control reports that since the passing of the law, the number of girls under the age of 18 at risk has quadrupled and estimates that 513,000 girl and women in the US are at risk.⁴⁰⁷
- In the Congressional Findings document that accompanied federal legislation criminalizing FGM in the United States, Congress provides a clear description of the principles of the Constitution that embody the law; confirms that FGM infringes upon the guarantees of rights secured by federal and state law, both statutory and constitutional; states that specific sections of the First Amendment of the United States Constitution grants protection from an establishment of religion, and protection from expressions, including but not limited to religious and cultural, that provoke actions that invoke harm on others.
- While FGM has been a crime under federal and many state laws, for decades, law enforcement officials have identified few investigations related to FGM.⁴⁰⁸ The laws are by and large invoked as, and remain to this day, immigration laws. In the 22 years since the passage of the 1996 law, the state of Michigan (2017) case is the first of its kind to undergo legal prosecution in the United States.
- The law is enshrined in immigration statutes making it by and large an ‘immigration law.’ Homeland Security admits that seeking asylum may be more effective than seeking protection under the law itself.
- The language of the law uses two words to identify the types of individuals protected by the law, the word ‘minor’ to categorize individuals under the age of 18, and the word ‘person.’ The Congressional Findings document also uses two words to identify the types of individuals protected by the law, ‘female’ and ‘women.’ Neither document uses the words ‘child’ or ‘children.’
- The United States is the only country in the world that has not adopted the Convention on the Rights of the Child.

⁴⁰⁷ Goldberg, H., Stupp, P., Okoroh, E., Besera, G., Goodman, D. and Danel, I. (2012). *Female Genital Mutilation/Cutting in the United States: Updated Estimates of Women and Girls at Risk, 2012*. [online] Uscis.gov. Available at: <https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Special%20Situations/fgmutilation.pdf> [Accessed 10 Oct. 2018]

⁴⁰⁸ Gao.gov. (2016) Section: What GAO Found. *Female Genital Mutilation/Cutting*. [online] Available at: <https://www.gao.gov/assets/680/678098.pdf> 14 Oct. 2018].

The voices of lawyers and business executives

- Children, not just in these communities, as a group continue to share a common characteristic which is namely a position of social and legal inferiority as compared with their parents and other adults.
- The law is required as a guiding principle, however, change occurs from within societies. The law cannot expect to effect great change towards a society's elimination of an act that is silenced and hidden, and only acknowledged, if ever, by very few professionals after its been exacted upon the child that the law purports to protect.
- The general intention and presumption of the law was that prosecution should relate to the cultural forced practice on girls, however, the first prosecution is a United States licensed physician. The physician clearly appears to have broken the law, however, the law nor enforcement has reached into the communities of practice.
- Many of the professionals that are, or should be, responsible for enforcement are men, whether it's the police force, district attorney's office, the FBI or the justice system. Men have a very hard time dealing with an issue like this and they need help; they need education; they need clear direction on what to say and how to behave with the children, their parents, and the people of the community; and, also, how to communicate with other responsible professionals like physicians, social workers and advocates. If there are only women working to eliminate this practice, the law will not be enforced nor will it succeed.
- Few surgeons realize that, according to US law, a patient under the age of 18 cannot consent, nor can their parents on their behalf, to female genital cosmetic surgery.
- The cutters in the communities where FGM is practiced are women whose living depends on the continuation of the practice. Key matriarchs in the community are more often than not the perpetrators of the practice.
- A culturally relativistic perception is guiding enforcement. When abuse happens within a family it is complicated, misunderstood and people are inclined to turn away. Enforcement feels that they will be accused of being anti-Muslim or anti-African, or called a racist. Enforcement leadership has not made this relatable and digestible in the context of the enforcement professional's everyday responsibilities.

The voices of physicians/midwives/social workers

- There is little to no funding in the communication and enforcement of the law. There is no organized, direct communication of the law from the government to each licensed professional who is responsible for its acknowledgment and enforcement; no training or education. Professionals are responsible for knowing about something they have not been told or educated about.
- The law prohibiting FGM cannot be executed effectively without first critically reviewing and addressing the United States' approach to child abuse, and child protection and safeguarding generally. The law is a solution to a problem that the United States has not reached consensus on, that of parental rights versus children's rights within a framework of child abuse.
- The language of the law on the practice of FGM is clear, however, the translation and application of the law and its effectiveness remains open to interpretation. The law speaks the language of the law, it does not speak the multiple languages of the communities that practice FGM, nor does it speak in context with the many esoteric languages spoken by the many and varied professionals who are responsible for its recognition and enforcement.
- Overwhelming non-compliance by medical professionals to report the abuse. There are diagnoses codes for FGM but the significant majority of clinicians do not use them. Physicians fail to recognize and document the presence of FGM in the patient's medical record which is not dissimilar to non-compliance in recognizing and reporting child abuse in general.
- The law by itself, without significant funding for communication and educations for all types of responsible professionals, and further, in languages and media that reach the many different communities that practice FGM, will cause the practice to be taken further underground. The communities will change and start doing it on babies instead of young girls.
- The community narrative overrides the legal narrative. The law does reach to or speak to the communities that practice FGM.
- Most often, Mothers, Grandmothers, and Aunts make the decision to FGM girls. Fathers are seen as less generally supportive of the practice and its continuation and historically are often the ones that make the decision where the daughter remains uncut.

The voices of research

- The US does not know the size of the problem because the US does not require mandatory reporting of FGM. The gap between the dimension of the problem and the lack of research and resources being devoted to it will continue to ensure the law's ineffectiveness.
- FGM must be categorized and referred to in terms of child abuse and not culture. Calling it cultural gives professionals an opportunity to stand back and not enforce the law.
- The practice may decrease in the home countries due to the activity of focused campaigns and education in the home communities yet increase or remain static in the diaspora in the United States due to its vastness and lack of focused education and enforcement in the communities.
- Research shows that most survivors do not realize what they have been through and that there is a law prohibiting it.
- As the availability of representative data of the extent of FGM increases, so does the number of girls and women known to have undergone the practice.⁴⁰⁹
- The limited language of the FGM law, and its application proves to resonate with the authors but falters and fails to effect great change in both the responsible professionals that are bound to enforce it and the specific communities it is ultimately intended to influence. Federal legislators, state legislators and a multitude of government bureaucracies count the number and diffusion of child abuse prevention instruments as great progress even in the presence of an unconscionable gap between the laws and their lack of effect on the many vulnerable children they are intended to protect.
- Cultural relativism manipulates for its means, the concepts of autonomy and self-determination as those belonging to community and culture. Cultural relativism puts forth that there are no universal principles of behavior to which all peoples can be, or should be, held accountable. Using the theory of cultural relativism, wherein all rights rest solely on culturally determined social rules that we are each born into, that we each inherit from those that came before us, then both African Americans and women in the United States, who are ancestors, or relatives of ancestors who came to the United States from cultures in Europe where slavery was permitted, and Coverture was the law, would still be considered property of men with restricted rights.

⁴⁰⁹ World Health Organization (WHO) *Female Genital Mutilation Fact Sheet* (2018) <http://www.who.int/en/news-room/fact-sheets/detail/female-genital-mutilation>

- In addition to FGM, the practice is frequently called Female Genital Cutting (FGC) and Female Circumcision (FC). FGM/C (female genital mutilation/cutting) is a common variation that is currently used in literature by UNICEF and the U.S. Department of Health & Human Services. Objections to the term FGM have been raised because the term is seen by some to confer judgement and condemnation of what is an age-old practice in many communities. The use of FGM/C is a hybrid term sometimes used to capture the significance of the term ‘mutilation’ at the policy level and highlight that the practice is a violation of the rights of girls and women, while also recognizing the importance of respectful terminology when speaking and working with the practicing communities.⁴¹⁰ The 6th General Assembly of the Inter-African Committee of Traditional Practices declared that any change to the use of the term FGM “trivializes the suffering of African women and girls and that any change is done so without consultation, and overrides the consensus reach be African women in the front line of the campaign as well as the voices of millions of African girls and women who suffer in silence.”⁴¹¹ Use in the United States varies, however, FGC or FC (female circumcision) is still preferred by many for reasons of cultural relativism and sensitivity to the community of survivors.

The voices of the community including survivors as relayed by the participants

- A code of silence prevents most survivors from revealing what has been done to them.
- It is inaccurate and discriminatory to treat all survivors as if they are the same; as if they all have experienced the same level of procedure. Many have physically and mentally adjusted, many have not, it depends on the type of practice that the survivor experienced; their recollection of it and the host of sequelae that may or may not have followed. (P018) *We all have a different narrative.*⁴¹²
- The law will not stop the practice but it is needed for guidance.
- (P002) *Never about us, without us.*⁴¹³ The creation and enforcement of legislation has not included the voices of the children, the survivors or the communities in which they live and sometimes are harmed and die.

⁴¹⁰ Unicef.org. (2013) p. 7. *Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change*. [online] Available at:

https://www.unicef.org/cbsc/files/UNICEF_FGM_report_July_2013_Hi_res.pdf [Accessed 20 Sep. 2018].

⁴¹¹ DECLARATION: on the Terminology FGM. (2005) p. 1. In: *The sixth General Assembly of the Inter-African Committee on Traditional Practices (IAC)*. [online] Available at: <https://www.taskforcefgm.de/wp-content/uploads/2011/05/Bamako-Declaration.pdf> [Accessed 17 Aug. 2018].

⁴¹² This expression was used by participant (P018)

⁴¹³ This expression was used by participant (P002) and appears to be a take on the expression ‘Nothing About Us Without Us’ and could not be traced to any particular author or origin. The quote appears frequently as a mantra for the peoples with disabilities movement. https://www.huffingtonpost.com/entry/nothing-about-us-without-us-mantra-for-a-movement_us_59aea450e4b0c50640cd61cf The quote was relayed in (P003)’s narrative who contributed it to ForwardUK.

7. Reflections on my research

I started this research by having a particular kind of public persona and my voice was defined by my professional roles. Critical reflection on ontology brought me in contact with philosophy particularly works on self and identity by Heidegger and Ricoeur who made sense of me to me helping me recover the voice of the child and the judgmental voices that accompanied her. The ontological writings helped me to understand that although part of narrative of who I am in the world are those abusive voices, they no longer had the force, implicit or explicit, to silence my child/woman voice. I felt I had been released from a prison of behaviours and structures which I had put in place to ensure I would never be vulnerable again. These writing also helped me to articulate complex feelings into organised thoughts and words. I am not a philosopher. I have used philosophical writing for the purposes of the above I have just mentioned. They played a significant role in my exploration into my own ontology, what shaped me and my actions in the world. For me, Heidegger's 'they-self' is like that of a child learning and testing pronouns in the effort to understand their place among others, and the child in me understood it. My ontology is an equivalent to my DNA; my ontology is unique to me, immutable by others including the 'they-selves.' I arrived at Heidegger's notion of selfhood. However in Ricoeur's notion of narrative identity this does not mean that I cannot be in a constant state of shaping and being shaped by encounters and experiences.

Heidegger and Ricoeur both wrote extensively on narrative identity and its relationship to temporality and the notion of multiple voices polyvocality in the construction of identity. These multiple voices of participants have become part of my narrative identity, part of my story. I have been changed and shaped by them in the way Ricoeur talks about identity and character and demonstrates this through the metaphoric device of the character being in a narrative (or a play even).

“...the notion of an interconnectedness of a life orients thinking towards a certain mixture of permanent and changing features. It is precisely at this point that narrative offers its mediation.”⁴¹⁴

This research has become a narrative of my identity and a knowledge narrative as if it is a play and the various characters have connected with the researcher and connected through the medium of the researcher to each other. Everything in this document is at this point is like a play with a plot unfolding in moments and diverging along paths in a constant state of shaping and being shaped resulting in an increased knowledge of self and other and self in relation to other.

⁴¹⁴ Ricoeur, P. (2016) p. 232. *Philosophical Anthropology*: Polity Press.

“...the function of narrative is not limited to intensifying the characteristic already brought to light by the earlier analysis. It also brings an absolutely specific element that launches the analysis in a new direction.”⁴¹⁵

This may not be the way Ricoeur intends for his work to be used beyond philosophical debate but this is how I make sense of the writing for me in this moment as a professional practitioner having carried out a piece of research on an issue that is one of the greatest shames of civilization and that is endemic child abuse. I am angry, I am frustrated. The emotions expressed in strong language by the participants were in fact echoes of my thoughts which I kept in check.

Reflection disclosed to me, an out-of-my-awareness narrative identity that had developed and evolved over time, unbeknownst to me; one that had begun in childhood and had been added to over time by a multitude of relationships and experiences and was the unnamed, unidentified, out-of-awareness chorus in my head; a narrative that gave full throatedness to the ventriloquy of my parents voices; one that played regularly, stuck on repeat like a damaged record.

My ‘new direction’ is to harness and transform anger, frustration and pain positively into action into doing something about child abuse, all kinds of child abuse and most immediately and concurrently to do something about FGM in the United States that will support children and mothers and health practitioners and legislators. What chance do these children have to have an identity without fear of retribution, a chance to feel fulfilled, to enjoy pleasure, to act positively, to have the same rights as others, to have a richer narrative?

“What justifies our taking the subject of an action, so designated by his, her, or its proper name, as the same throughout a life that stretches from birth to death? The answer has to be narrative. To answer the question “who?”... is to tell the story of a life. The story told tells about the action of the “who.” And the identity of this “who” therefore itself must be a narrative identity.”⁴¹⁶

I return to Ricoeur’s notion of ‘the promise of the promise’ and feel that since doing the research I am confident I can deliver on the promise to myself and to those participants who shared so much with me and trusted me. Another promise to myself which has already taken hold is to read more of Ricoeur and to begin to understand him better. Like Heidegger he is a character in my narrative, my research play, and one I would like to meet again and for longer, someone whom I experience as a peer in my thinking, there is resonance. Heidegger is like the older more strict uncle and as someone who appreciates structure and rules I enjoyed his logic and will return to him also at some point in the future.

⁴¹⁵ Ibid, p. 239

⁴¹⁶ Ricoeur, P., Blamey, K. and Pellauer, D. (1990) p. 246. *Time and Narrative, Volume 3 (e-book)*. Chicago: University of Chicago Press.

The main gaps I had identified as an individual and as a professional before undertaking the research were from accumulated personal and professional experiences. They stimulated my curiosity which I have in abundance. The triggers were more than one: how we spend our healthcare budgets in my work world; an article in a newspaper; my mentoring role with young and mid-career professionals carrying their trauma in rucksacks impeding their development and having reached a personal hiatus in my life. But it was more than that; it was as if I had been too busy doing everything I could to ensure I would never return to that state of vulnerability which I had endured as a child, to pay attention to harmed children all over the United States. I had become one of those passive bystanders myself whom I was quick to criticise for doing nothing to save me as a child.

These triggers and more combined and created a catalyst to give me the energy to take on an exploration of what was bothering me and dig deep into my assumptions and the gaps in my own knowledge before I could trust myself to have something, not only useful to say but which could contribute to addressing the gaps which leave children vulnerable whether they are from new communities in the United States or from more embedded communities. Child abuse is prevalent and does not differentiate between the rich and the poor, new communities or old, well-educated or poorly educated.

I was aware of what might be perceived in my choice of focusing on FGM; that I was targeting an immigrant community and their beliefs in a political climate that had become very anti-immigration. However, my interest was in gaps between the legislation, practices, reporting and prevention of child abuse in the United States. FGM presented me with a bounded case with less variables than other forms of child abuse thereby lending itself as a lens through which to examine the gaps which made legislation ineffective in preventing widespread child abuse generally. A more personal reason was that I was born a female and, through no fault of my own, became a survivor of parental abuse, a 'whipping girl' for the distorted domestic culture of pain and insanity caused to them by both environmental and genetically dispositioned factors. My family was a culture, my family functioned like a cult with no external intervention to question the practices for fear of interfering, of offending parental authority and privacy. FGM is one of the worst forms of harm against a female child that I have seen. I can say that my exposure through this research to the narratives of women, the legal cases, the perspectives of those involved in interventions has changed me from a bystander to an advocate but an advocate who is equipped with facts and committed to doing something, not one who is the bystander advocate or the bystander sympathiser. If I reverted to that I would have failed in my own eyes, in my own heart. I can now join with others to work on change. My strength is in lobbying for changes in legislation and policy and how both can be more effective in protecting children. This is why my recommendations are targeted in that direction.

Before moving onto the recommendations which are my practical outputs from what has been anything but an experience of objectivity, I am left with a contradiction, a profound observation which is elegantly summed up by Elaine Scarry (1985) and to whom I am indebted for articulating what has been a core dilemma for me and which I have brought up in this research. I do not yet know how to resolve it, but I hope this work has taken some small steps in the right direction.

“When one finds oneself in the midst of a complicated political situation, it is hard not only to assess the “rightness” and “wrongness” of what is taking place but even to perform the much more elementary task of identifying, descriptively, what is taking place. The fact that torture, whose activity has a structure accurately summarized by the word “*stupidity*” should ever even for a moment successfully present itself to the outside world as an activity of “*intelligence-gathering*” is not an aimless piece of irony but an indication of the angle of error (in this case 180 degrees) that may separate a description of the event from the event itself.”⁴¹⁷

⁴¹⁷ Scarry, E. (1985) p. 278. *The Body in Pain: The Making and Unmaking of the World*. New York: Oxford University Press.

8. Recommendations

Professional and community outreach appears to be the number one failure in the creation, enactment and enforcement of FGM legislation. I found no department at the federal level responsible for communicating and educating the many and varied professionals who the law ostensibly relies upon for its effective enactment and enforcement, nor is there a department responsible for notifying and educating the public in general, nor the children and women of the communities in the United States who rely on the law for their protection. The great majority of professionals whom the federal law relies upon for its practical enactment and enforcement — lawyers, physicians, midwives, nurses, and social workers — are licensed by the individual states. The federal government does not govern nor issue licenses to practice medicine or law in the United States. Federal law is enforced through a myriad of government bureaucracies and private efforts. Given the broad expanse and population of the United States, the federal enforcers are limited in number and in rationing their resources, FGM, as a specific federal prohibition, does not make it on the radar of priorities. In addition, FGM is legislated in the realm of federal immigration law, not communicated as part of federal child abuse law, therefore the federal system has not budgeted the ways nor created the means to enact or enforce its prohibition effectively, nor has it obligated the states to do so on its behalf or in its absence.

As the research and findings show, there are many roles that need to be coordinated to create legislation and policy that not only speaks to the practice of FGM and the reality that it is a form of child abuse which takes place within a family, hidden from view, but one which also speaks to and obligates the varied professionals in practice on the front line who are relied upon for its communication and enforcement. The second major failure appears to be interpretation and translation of the intention of legislation by both the professionals and the public at large. Research shows that the law clearly stipulates, along with Congressional Findings, that FGM infringes upon the guarantees of rights secured by federal law and that the First Amendment of the Constitution specifically prohibits an establishment of religion being given recognition or preference and further grants protection ‘from’ religious or cultural expressions that evoke and or invoke harm. Translation and interpretation of legislation can be complex, especially when it needs to speak the many languages of the professionals it relies upon. Language is a vital means of communication and education and plays a key role in how the law is interpreted and translated to the many who are responsible for its enactment and enforcement, and to the many who are dependent on it for their protection. The terms used and languages spoken by the many professionals in practice, often converge and diverge confusingly based upon both subjective and objective factors including a profession’s practice context, in the context of the practice of FGM and in the more general context of child abuse.

In the following recommendations I speak to the knowledge gap that emerged through the voices of the participants which reveals the implementation gap of legislation to practice, that not only

ensures ineffective enforcement of legislation as it relates to the prohibition and prevention of FGM, but also the prohibition and prevention of child abuse in general.

Recommendations 1:

The United Kingdom has been at the forefront of Europe in respectfully tackling the practice of FGM and has made significant steps in closing the gap, steps which the United States might draw on. My research confirmed this. My conversations with U.K. professionals and a review of U.K. legislation revealed knowledge and experience which I believe ‘the legislators and practitioners in the U.S. can learn from the legislators and practitioners in the U.K.’ These include the following:

- ✓ Created a national FGM Prevention Program working in partnership with the National Health System to create briefings on the law that translate law to practice in plain English, to the varied professionals responsible for its enforcement; law enforcement, medical, legal and social professionals, and schools.
- ✓ Created a cross-government specialist FGM unit working with criminal justice partners, children’s services, healthcare professionals and affected communities to coordinate educational, enforcement and judicial services.
- ✓ Legislated a mandatory reporting duty obligating all regulated medical professionals to discuss FGM with all female patients, regardless of age, race, ethnicity, etc. and document medical records accordingly of conversation and any physical findings.
- ✓ Legislated a mandatory reporting duty obligating specified regulated professionals to make a report to the police when a professional discovers that FGM may be carried out or has been carried out on a girl aged under 18. This duty applies to professionals working within healthcare, social care and teachers (physicians, midwives, nurses, social workers, teachers, etc.)
- ✓ Obligated local police forces in the recognition and enforcement of the law.
- ✓ Introduced an FGM hotline for both calls and emails
- ✓ Legislated a Female Genital Mutilation Protection Order which is a civil measure that can be secured by anyone looking to be protected from FGM, or a relevant third party looking to protect a potential victim from FGM such as local authorities; the police, a social worker or advocate, a healthcare professional, a teacher a friend or family member.

- ✓ Post enforcement officers and or advocates (who are survivors of the practice) at airport security, to identify and interview families who are traveling with children to known countries that practice FGM, whose girls may be subjected to FGM during the visit. The interview includes education on the practice of FGM and the extensive nature and reach of the law regardless of where it is performed. Law enforcement has the right to detain and or prevent travel accordingly.
- ✓ Started a movement to simplify legal and medical language; making it clearer for inclusiveness and education of a nation's many individuals.

Recommendations 2-9:

The following two tables include the gaps which the research identified and my recommendations to both the United States legislature and to advocates and potential advocates of the rights of the child, including myself.

Table of Recommendation 2-7:

	Gap	Recommendations: Lobbying Issues	FGM	Child Abuse
2.	The endemic nature of child abuse in the United States can be seen as a nation's culture of abuse. Children's rights are all but inexistent in the presence of parent's rights. Parent's rights as persons in the Constitution are almost always considered sovereign.	Lobby Congress to add child and or children as applicable to the definition of person(s) in relation to the First and Eighth Amendments of the Constitution which would give all children the right to freedom from an establishment of religion (or culture) and therefore protection from expressions that evoke or invoke harm; and protects them from cruel and unusual punishments.		x
3.	FGM legislation does not mention the word child or children; refers instead to persons, females and women.	Lobby Congress to amend FGM legislation to include the word child and children where applicable.	x	
4.	FGM legislation does not mandate reporting nor identify professionals or persons who are required to report FGM.	Federal child abuse legislation requires all states have statutes identifying professionals and persons who are required to report suspected maltreatment. Lobby Congress to amend FGM legislation to do the same.	x	
5.	FGM legislation does not include a Female Genital Mutilation Protection Order.	Lobby Congress to amend FGM legislation to include a Female Genital Protection Order as a civil protection option.	x	
6.	FGM is enshrined in immigration legislation.	Lobby Congress to amend child abuse legislation to include the acts of FGM. This federal amendment will cascade to the states making FGM prohibited in all 50 states.	x	x
7.	The legislative process does not include a notification and communication plan to the various professionals responsible for its acknowledgment and enforcement. Copies of the law are delivered to the document rooms of both the Senate and the Congress where they are <i>available</i> to officials and the public.	Lobby Congress to create a mandate that requires the development and execution of a notification and communication plan (in plain English) for legislation where regulated professionals are responsible for recognition and enforcement of the law. Given the reach of federal legislation, this includes notification and communication to the states and the regulated professionals licensed by the states.	x	x

Table of Recommendation 8-10:

	Gaps	Recommendations: Lobbying Strategy	FGM	Child Abuse
8.	There is little to no cooperation or collaboration between the professionals in the UK and the professionals in the US.	<p>1. Develop an advocacy group and blog that shares knowledge and experiences that both informs and influences legislation and policy; and informs and influences the professionals responsible for the enactment and enforcement of FGM and other forms of child abuse legislation.</p> <p>2. Hold annual conferences that brings together the advocacy group, including participants of this study that volunteered to be members of such an advocacy group, and begin a movement to translate legislation into plain English and into the practice languages of the many professionals responsible for its enactment and enforcement.</p>	x	x
9.	There is no evidence that shows that legislation prohibiting the practice of FGM has been incorporated into medical school training or into continuous medical education studies.	Present my research and findings to Icahn School of Medicine at Mount Sinai to begin discussions on the potential of including in the curriculum a class on the law, its application and enforcement.	x	
10	Through this research I have discovered there is a significant gap in community representation among professionals in the United States at all levels of training, such as training for junior and senior health professionals, policy makers, legislators, decision makers, etc.	In forums where I anticipate providing educational services on the practice of FGM to external audiences that may include people from the communities that practice FGM, I will seek to partner with a professional/advocate that is from the community, an insider so-to-speak, to represent experiential sensitivity to, and credibility of the cultural knowledge and data. Always remembering: <i>Not about us, without us.</i>	x	

Closing Statement

Storytelling, like narrative, can reveal facts, however, the true value of stories is that they reveal personal and professional experiences and values that may be concordant or discordant with those facts; they bring to the surface the individual's connections to reality, the reality of their reality. A narrator contemplates the relations among facts and events, and searches for meaning in what is present and what is absent in relation to the flow of events and understanding over time. A narrator can rearrange the facts or events differently to find new meanings and even tell

the story differently depending on the audience. Roland Barthes writes in the preface to *Essais Critiques*: “The task of literature is not as is often thought “to express the unexpressible” — this would be a literature of the soul — but “to unexpress the expressible,” to problematize the meanings our cultural codes otherwise confer, and thus to unwrite the world as it is written by prior discursive practices.”⁴¹⁸ Or, put another way, by Bruner:

“Another crucial feature of narrative... is that it specializes in the forging of links between the exceptional and the ordinary...it focuses upon the expectable and/or the usual in the human condition...it endows these with legitimacy or authority...yet it has powerful means that are purpose-built for rendering the exceptional and the unusual into comprehensible form...the viability of a culture inheres in its capacity for resolving conflicts, for explicating differences and renegotiating communal meanings...the “negotiated meanings” [that are] essential to the conduct of a culture are made possible by narrative’s apparatus of dealing simultaneously with canonicity and exceptionality.”⁴¹⁹

Barthes and Bruner’s expressions on the power of narrative to link cultural behavior to action through meaning making, also serves to link the goal of this narrative, that of cultural transformation of both a community and a nation, to that of my nation’s promise of ‘liberty and justice for all.’ Narrative and storytelling is how I come to endow the journey and experience of this project with meaning.

⁴¹⁸ Culler, J. (2002) p. 129. *Barthes: A Very Short Introduction - Kindle Edition*. Oxford, New York: Oxford University Press.

⁴¹⁹ Bruner, J. (1990) p. 150. *Acts of Meaning (The Jerusalem - Harlem Lectures)*. Cambridge Massachusetts and London, England: Harvard University Press.

Appendices

Federal Statutes:

§ 116. Female Genital Mutilation **18 U.S.C.A. § 116**

(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

(b) A surgical operation is not a violation of this section if the operation is—
(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or
(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.

Link: <https://www.law.cornell.edu/uscode/text/18/116>

Notable Congressional Findings with respect to the above statute:

a) FINDINGS.—The Congress finds that—

- (1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;
- (2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;
- (3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;
- (4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;
- (5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the first amendment to the Constitution or under any other law; and
- (6) Congress has the affirmative power under section 8 of article I, the necessary and proper clause, section 5 of the fourteenth Amendment, as well as under the treaty clause, to the Constitution to enact such legislation.

§ 1374. Information regarding female genital mutilation
8 USCA § 1374

(a) Provision of information regarding female genital mutilation

The Immigration and Naturalization Service (in cooperation with the Department of State) shall make available for all aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of entry into the United States, the following information:

(1) Information on the severe harm to physical and psychological health caused by female genital mutilation which is compiled and presented in a manner which is limited to the practice itself and respectful to the cultural values of the societies in which such practice takes place.

(2) Information concerning potential legal consequences in the United States for (A) performing female genital mutilation, or (B) allowing a child under his or her care to be subjected to female genital mutilation, under criminal or child protection statutes or as a form of child abuse.

(b) Limitation

In consultation with the Secretary of State, the Commissioner of Immigration and Naturalization shall identify those countries in which female genital mutilation is commonly practiced and, to the extent practicable, limit the provision of information under subsection (a) to aliens from such countries.

(c) “Female genital mutilation” defined

For purposes of this section, the term “female genital mutilation” means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minora, or labia majora.

Link: <https://www.law.cornell.edu/uscode/text/8/1374>

The above concepts are also reflected in the Foreign Affairs Manual, published by the Department of State, as excerpted below:

Foreign Affairs Manual

9 FAM 504.10

IMMIGRANT VISA ISSUANCE

9 FAM 504.10-4 REQUIRED NOTIFICATIONS

9 FAM 504.10-4(A) Female Genital Mutilation (FGM) Notification Requirement

(CT:VISA-121; 05-03-2016)

Section 644 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Public Law 104-208 (8 U.S.C. 1374), requires the Department of Homeland Security (DHS), with the cooperation from the Department of State, to notify visa recipients of the severe harm to physical and psychological health caused by Female Genital Mutilation (FGM). The DHS regulations require that written notice be given to immigrants in countries where FGM is a common practice.

9 FAM 504.10-4(A)(1) All Posts Required to Post FGM Notice

(CT:VISA-1; 11-18-2015)

All posts must display the Fact Sheet on Genital Mutilation in the Nonimmigrant Visas (NIV) and/or IV waiting room. The Fact Sheet should be displayed in the local language so that applicants from countries where FGM is practiced will have notice that this practice is illegal in the United States. See [9 FAM 504.10-4\(A\)\(3\)](#) below for information on translating and reproducing the notice.

9 FAM 504.10-4(A)(2) Requirement to Provide Copy of FGM Notice

(CT:VISA-1; 11-18-2015)

IIRIRA 664 (8 U.S.C. 1374) allows DHS and the Department to target visa recipients from countries where FGM is a common problem. Posts should provide a copy of the notice to IV recipients in the countries listed below. At the time of interview, consular officers at posts listed below should provide one copy of the notice to each family receiving an immigrant visa.

List of Countries Where FGM is Prevalent:

Benin	Burkina Faso	Cameroon	Central African Republic
Chad	Cote d'Ivoire	Democratic Republic of the Congo	Djibouti
Egypt	Eritrea	Ethiopia	Gambia
Ghana	Guinea	Guinea-Bissau	Iraq
Kenya	Liberia	Mali	Mauritania
Niger	Nigeria	Senegal	Sierra Leone
Somalia	Sudan	Tanzania	Togo
Uganda	Yemen		

List of Posts to Provide Applicant With Fact Sheet on Genital Mutilation:

Abidjan	Accra	Addis Ababa	Asmara
Baghdad	Cairo	Cotonou	Dakar
Dar es Salaam	Djibouti	Freetown	Kinshasa
Lagos	Lome	Monrovia	Nairobi
Niamey	Ouagadougou	Sana'a	Yaounde

9 FAM 504.10-4(A)(3) Downloading FGM Notice From the Website

(CT:VISA-1; 11-18-2015)

a. Amharic, Arabic, English, French, Swahili, and Somali versions of the Fact Sheet on Genital Mutilation are available on travel.state.gov. Posts should print out a copy of the notice and reproduce it locally. Posts are authorized to use their MRV allotment or fund site if needed to cover local reproduction costs.

b. If the appropriate local translation is not available, posts may also create their own notices in the dialects of the country that they serve. These additional translations may be posted upon request.

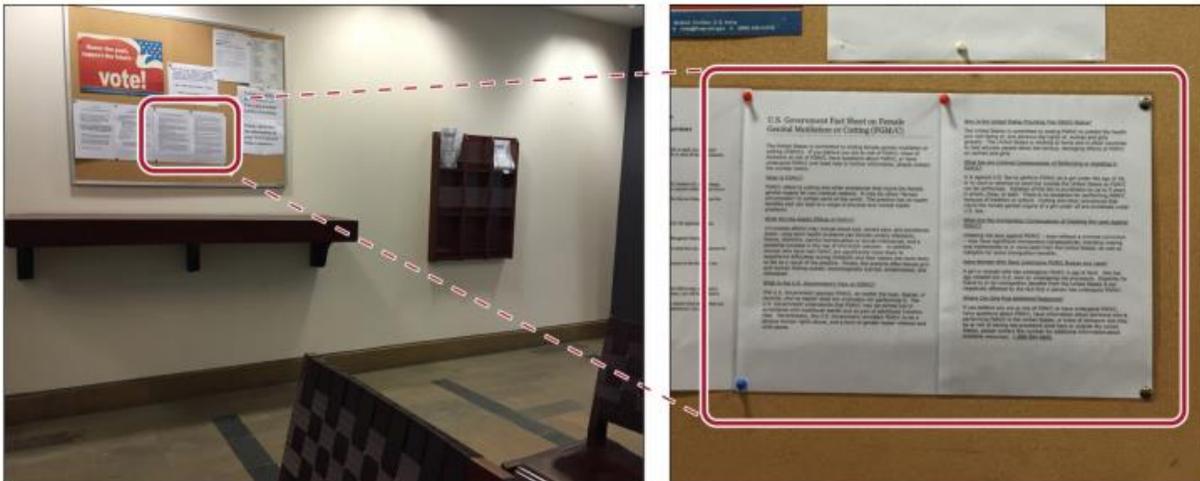
9 FAM 504.10-4(B) Public and Host Government Reaction to FGM Notification Requirement

(CT:VISA-121; 05-03-2016)

The social and political sensitivities surrounding FGM in many countries may prompt public or host government reaction to the FGM notice. Posts should draw on the following talking points when responding to any complaints or comments:

- (1) The United States law makes it illegal to perform or allow others to perform FGM in the United States on persons under the age of 18 for other than medical reasons. The law also requires that persons receiving visas be advised of this fact, and of the medical and psychological damage caused by FGM.
- (2) Providing this advice could prevent individuals from doing something in the United States that could result in their becoming subject to criminal prosecution. This is particularly important because people who have grown up in societies where FGM is deeply rooted may erroneously assume that they can follow their customs in the United States.
- (3) We realize that in countries where the practice is common, FGM is deeply rooted in social traditions and culture. We nevertheless believe that FGM is a serious violation of a woman's rights and should be eradicated through education efforts and legislation making the practice of FGM illegal.
- (4) The United States is committed to working with other governments and local community organizations, both in the United States and other countries, to educate people about the serious damage FGM inflicts on women and girls. The practice of FGM is now illegal in the United States, and we believe strongly that persons immigrating to the United States or visiting from countries where FGM is prevalent should be aware of this fact.

Figure 3: The "U.S. Government Fact Sheet on Female Genital Mutilation or Cutting" on Display in Waiting Area at the Post in Tanzania, March 8, 2016



Source: GAO. | GAO-16-645

22 U.S.C.A. § 262k-2
§ 262k-2. Female genital mutilation

(a) Limitation

Beginning 1 year after September 30, 1996, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines--

(1) has, as a cultural custom, a known history of the practice of female genital mutilation;
and

(2) has not taken steps to implement educational programs designed to prevent the practice of female genital mutilation.

(b) “international financial institution” defined

For purposes of this section, the term “international financial institution” shall include the institutions identified in section 532(b) of this Act.

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