

Genital Mutilation in India-An evil practice

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Abstract

Female Genital Mutilation commonly known as FGM/C has in recent times been an eye opener for the Ministry of Women and Child Development and set the system in motion. FGM/C is practised mostly by the Dawoodi Bohra community with one million members in India. khatna, khafz, and khafd, the procedure is performed on six- or seven-year-old girls and involves the total or partial removal of the clitoral hood

Female genital mutilation/ cutting (FGM/C) involves the partial or total removal of external female genitalia or other injury to the female genital organs for non-medical reasons, and said practice has no health benefits for girls as well as for women.

FMG also known as khatna which is a process of removing part or all of the female genitalia are exposed to serious health issues thereby posing risks to their life this practice is against the fundamental right of Article 14 and 21 of the Constitution of India as the child who undergoes this practice is denied the equality status and suffers the differential system of practice of Khatna upon them and is denied with the life and personal liberty. These are the basic fundamental rights which a citizen (including children) is entitled to enjoy. The authors in this article would like to point out though there are various provisions of law protecting the girl child in particular practices like FGM still prevail which needs to be tackled lawfully in achieving the goal of Sustainable development 2030 as recommended by UN.

Keywords: FGM, Genital Mutilation, Cuttin, Khatna, Fundamental right, Gender, Equality.

1. Introduction:

Every year on February 6, the world observes the International Day of Zero Tolerance for Female Genital Mutilation. This day is crucial for gender activists and demands everyone's attention. All practices involving partial or complete removal of the external female genitalia or other harm to the female genital organs for non-medical reasons are referred to as female genital mutilation/cutting (FGM/C). While it is typically performed on girls between the ages of one and fifteen, occasionally it is also done on adult and married women.

2. Meaning- Female Genital Mutilation:

For non-medical purposes, female genital mutilation (FGM) comprises the partial or complete removal of external female genitalia or other harm to the female genital organs. All practices that entail the partial or complete removal of the external female genitalia or other harm to the female genital organs for non-medical purposes are referred to as female genital mutilation (FGM). The majority of the practitioners are still following traditional methods. The concept that FGM is safer when it is medicalized has led to increased engagement of healthcare professionals in the operation in a number of contexts, according to the research. WHO strongly advises medical professionals avoid performing FGM.

3. Types of female genital mutilation/cutting:ⁱ

- Infibulation - cutting and repositioning the labia to produce a closure that narrows the vaginal opening
- Excision- removing the labia majora, along with some or all of the clitoris and the inner labia (the lips that surround the vagina),
- Clitoridectomy- removing the clitoris in part or in full
- other dangerous practices, such as pricking, piercing, cutting, scraping, or burning the female genitalia

4. Origin of the Practice:

Female genital mutilation origin is still unknown. On the basis of the discovery of circumcised mummies from the fifth century BC, some researchers have suggested that Ancient Egypt (modern-day Sudan and Egypt) is where it originated. Other researchers propose that the practices expanded along the lines of the slave trade, from the western side of the Red Sea to the southern and western African regions, or that it did so via Arab traders who travelled from the Middle East to Africa.ⁱⁱ

5. The FGM/C Practice in India :

There is currently no law in India that forbids FGM/C from taking place there. A non-governmental organization called Sahiyo that works to end FGM/C published a report in 2017 emphasizing the pervasiveness of the practice in India. The Dawoodi Bohra group, a sub-sect of Shia Muslims in India, primarily practices FGM/C, ALSO known as "Khatna or Khafd."

The clitoral hood is either completely removed or only partially removed in the Dawoodi Bohra community's procedure on girls aged 6-7 because it is seen to be a "immoral lump of flesh" that prevents the attainment of "taharat" or "purity" FGM/C is a problem for children's rights as well as women's rights because it mostly affects young girls.

6. FGM/C Legal Issues in India:

FGM in India was kept a secret until recently, therefore it remained a topic that was never brought up. A petition was submitted to the Supreme Court of India in May 2017 asking for the practice of FGM/C to be completely outlawed and to be deemed illegal and unconstitutional. The case was then referred to a bigger constitutional bench without a temporary injunction being issued, and it is currently ongoing.

A legal ban on FGM/C would violate the Dawoodi Bohra community's fundamental right to freedom of religion, which is guaranteed by the Indian Constitution, according to the Dawoodi Bohra Women's Association for Religious Freedom (DBWRF), which has opposed the petition and sought to protect the practice's continuation.

Articles 25 and 26 of the Indian Constitution protect the freedom of religion, however this freedom is not unqualified and is nevertheless subject to limitations related to public order, morality, and health. FGM/C is extremely dangerous to women and girls' health and can result in major health problems. FGM/C affects a person's physical health and well-being as well as their psychological and emotional health and wellbeing, which has a direct impact on the girl getting her hair cut's autonomy and bodily integrity. FGM/C also violates a number of fundamental rights, such as Article 14, which upholds the right to equality, Article 15, which forbids discrimination on the basis of sex, religion, race, and other factors, and Article 21, which addresses the right to life and personal freedom. And Penetrative sexual assault by any

person on any child is addressed under Section 3 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), which describes it among other things as inserting any item into the girl's vagina. It is generally known in law that sexual offences do not necessarily require full penetration.

7. Effects of performing female genital mutilation/cutting :ⁱⁱⁱ

FGM is frequently carried out by traditional circumcisers or cutters who lack medical training. But in some nations, a medical expert might carry it out. FGM is frequently performed using knives, scissors, scalpels, bits of glass, or razor blades without the use of anaesthesia or antiseptics. FGM has no health benefits and can have very negative effects, such as:

- trouble having sex and discomfort
- everlasting pain
- chronic infections that can cause infertility
- abscesses, cysts, and bleeding
- issues holding urine in or peeing (incontinence)
- flashbacks, depression, and self-harm
- issues during labour and delivery, which can be life-threatening for mother and baby

After the surgery, some girls pass away from infection or blood loss. FGM frequently occurs without a girl's knowledge or consent, and sometimes girls must be restrained forcibly.

8. Abolition of FGM/C:

FGM/C is defined as "any procedures that entail partial or complete removal of the external female genitalia, or other harm to the female genital organs for non-medical reasons," by the World Health Organization (WHO). Between 100 and 140 million women and girls are believed to have had one of the first three types of female genital mutilation, according to estimates from the WHO. According to estimates based on the most recent prevalence statistics, 91,5 million African girls and women over the age of 9 are currently dealing with the aftereffects of female genital mutilation. An estimated 3 million African girls are at risk of female genital mutilation each year.^{iv}

The Convention on the Rights of the Child makes reference to children's developing capacity to decide on issues that directly affect them. Female genital mutilation, however, is the consequence of societal pressure and community expectations and derives from the girls' desire to be regarded as complete members of the community, even in situations where there is an apparent agreement or desire by the girls to undergo the process. The decision to have female genital mutilation cannot be regarded as being free, informed, or devoid of coercion for this reason.

The eradication of customs harmful to children's life and health is particularly called for in legal documents protecting children's rights. The Committee on the Rights of the Child and other United Nations Human Rights Treaty Monitoring Bodies have frequently brought up female genital mutilation as a violation of human rights and urged State Parties to take all necessary and appropriate steps to end the practice, which is specifically mentioned in the Convention on the Rights of the Child.^v

9. FGM & Mental health of girl child/Women :

In addition to carrying serious health risks to women and girl child, FGM is also regarded as a serious violation of the human rights of those who undergo it. A person's right to health is violated if their health is put in danger without the appropriate medical care. Children are helpless and hence vulnerable. A

number of international laws have been established to safeguard children's rights. It is imperative to ensure that the action is in the "best interests of the child," according to the Convention on the Rights of the Child. The process of FGM, which is typically carried out at a very young age and is typically decided as a result of social pressure and community expectations, cannot be said to be in the best interests of the child, however, as it poses a high degree of health risks and other related problems. It is also most definitely not carried out with free consent; instead, it is carried out with force, coercion, undue influence, and most frequently by fraud.

FGM also infringes on women's and girls' rights to bodily and sexual integrity. As it is typically done when the girl is extremely young and unable to understand the process and its risks, the procedure is carried out without the women's and the child's free permission. It can be described as an illegal intrusion into a person's body that neglects that person's fundamental rights.

FGM violates women's and children's rights to be free from torture and other cruel, inhumane, and degrading treatment. No child shall be subjected to torture or other cruel, barbaric, or degrading treatment, according to the Convention on the Rights of the Child.^{vi}

10. Conclusion:

FGM is almost frequently carried out on minors. The principal offenders of this act, the family members, as well as anybody else who incites, abets, helps, or carries out this act—such as the doctors, mullanis, etc.—should be subject to legal penalties. Additionally, opposition to this practise is growing, and it is obvious that the younger generation is becoming active in social justice and women's empowerment. It is important to highlight that Bohra women are speaking out against this long-standing inhumane tradition in public. The need to raise awareness about this practise and its harmful repercussions on a woman's body is important.

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