

# Female Genital Mutilation- An Age Old Cruelty

Tanya

Collage- National University of Study and Research In Law, Ranchi (Nusrl) Year- 5th Year

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Women suffrage is a not new phenomenon in our world. You can even say it is an age-old practise which occurs irrespective of difference in society, religion or ethnicity. Women suffrage movement in 1876, 1877 and 1893 stands as a great example which explained this in a much broader way, it shows how a big word like discrimination is imprinted in the life of a woman from the moment they take birth. It's a sad truth that there is a possibility that this inequality may not change in the coming future.

One of the great established examples of exploitation of women is FEMALE GENITAL MUTILATION, which is a so-called religious custom in many religions. Female genital mutilation also popularly known as FGM is one of the most painful and cruel practice which a woman goes through, it not only affects them physically but also results in mental persecution. It is also called female circumcision. It is a custom in which Female genitalia is removed completely or partially. It can be said that the root of the problem is somewhere gender inequality in order to control their sexuality and physical as well as mental health. The procedure of FGM includes many risks which can affect women's health in a very cruel way, it can cause many serious recurrent infections, difficulty in urinating and also affects passing menstrual flow, chronic pain, the development of cysts and also sometime inability to get pregnant, complication during child birth, and can cause fatal bleeding which can even cause death.

Many people argue that Genital Mutilation is a very common practise in both women as well as male and thus there is no question of exploitation, discrimination against women. Well, it is true but it is an established fact that genital mutilation in male can enhance their health and is a better choice for them but in case of women, it can result as life threatening. It can clearly be seen as continuation is influenced mainly by lack of health care knowledge and is carrying out because of the social pressure and customs and confer no benefits of health and can result in very serious health problems and issues, thus such

religious requirements should be removed from every society of world.

It is predominantly practised in mostly Muslim societies but is also said to exist in many Christian as well as animist societies, it is not a mandatory requirement of Islam and thus many societies practising Islam such as Fatwas have forbidden FGM as a religious practise, or they have given parents the power to decide for their children but have strongly advised as well as opposed such idea. There is even indirect mention of such practise in the folklores of Ethiopia, Sudan, Kenya etc, the only existing practicing group of FGM is Beta Israel from the land of Ethiopia. Judaism is a religion where male circumcision is given importance but FGM is highly opposed, thus it gives a very beautiful message of religion and health walking hand in hand together as it is the two sides of the same coin whose main agenda is development of health as well as mental and physical wellbeing.

## I. LEGAL PROVISIONS

### • The right to life and physical integrity, including freedom from violence

The right to physical integrity generally includes every right to freedom from every kind of evil and torture, helps in inheriting dignity, self-respect of the person, the right to liberty as well as security of every people, and especially the right to privacy. This above-mentioned of rights is protected by all kinds of human rights associations such as:

- 1) International Covenant on Civil and Political Rights
- 2) universal declaration of Human Rights
- 3) international covenant on economic, social and cultural rights
- 4) convention on the rights of the child

All of the above agencies and associations are on the same page in regards with the cruelty of FGM. It is an established truth and famous fact that FGM can really cause severe physical as well as mental trauma, sometimes even resulting in death. And can thus, interfere with a woman's right to

physical integrity as well as privacy, and also freedom from violence.

- **The right to health**

FGM can very easily result in severe physical and mental trauma and as it constitutes an invasive procedure on otherwise healthy tissue without any medical necessity, it is seen as a violation of the right to health. The ICESCR encourages the rights of all human beings as the “highest attainable standard of physical and mental health.” The WHO talks about physical, mental and also social well-being in its definition of health and defines one’s health as “not merely the absence of disease or infirmity.”

- **The rights of the child**

FGM in every sense and definition of the world predominantly affects girls especially under or the age of 18, the fundamental issue is the protection of the rights of children. The (CRC), 1989, states that it acknowledges the role as well as rights of parents mostly of minors and accepts family making decisions for children, but it also gives as well as place the ultimate responsibility for protecting the rights of a child in the hands of the government. Article 5 of the CRC clearly states that “best interests of the child” standard in addressing the rights of children. It strongly believes that FGM is one of the cruellest violation of women’s health, integrity as well as their beautiful right to life.

## II. PRACTICE OF FGM IN INDIA AND ITS VIOLATION

In India practice of Female genital Mutilation is very common in many religious groups predominantly by Muslims, and also some Christian religious association. The Government of India as well as many NGOs are working against this practice and strongly opposing the groups practicing it, but the position of government is getting challenged by one of the provisions in the article provided by the constitution of India.

There are main two incidents which took place in India which can give the clear picture and situation highlighting the issues faced by the government and judiciary of Indian lawmakers and governments, this can also be understood as the defence for such malpractitioners.

- **FIRST- THE BOMBAY PREVENTION OF EX- COMMUNICATION ACT, 1949**

It was challenged in the case of Sirdar Syedna Taher Saifuddin<sup>1</sup> in Bombay High Court, the petitioner of the case stated that is against the provision of ex-communication as given by Article 26, “which gives freedom to religious groups to manage their own affairs<sup>2</sup>”, By using the provision of this act, a long battle of rights and wrongs is still going on, and thus making women and children vulnerable victims of their orthodox charade.

The act was said to be in contradicting position with many articles provided by Constitution of India such as the articles given below:

- 1) Article 25 of Constitution of India talks about freedom of conscience
- 2) Article 26 states Freedom to manage religious affairs.
- 3) Article 27 of the constitution of India gives freedom as to payment of taxes for promotion of any particular religion.
- 4) Whereas Article 28 provides Freedom as to attendance at religious instruction or religious worship in certain education institutions to the citizen of India.

- **SECOND-THE MAHARASHTRA PROHIBITION OF PEOPLE FOR SOCIAL BOYCOTT ACT, 2016**

The law in this act disallows social boycott in the name of caste, sex, community, religion, rituals. It was believed that a “progressive state like Maharashtra”, such boycott is shame for society.

The above mentioned act was challenged.<sup>3</sup> It was argued that “The so-called threat of a **social boycott** is not in any way a threat to a man’s reputation unless it is accompanied by something more directly affecting his or her character as an individual”<sup>4</sup>

## III. CONCLUSION

Number of associations, instruments as well as agencies established that every government have a duty to strongly prohibit the practice of female genital mutilation and protect all the women and girls who are becoming victims of this brutal practice. This duty should be fulfilled by enacting all kind of legislation and enhancing other methods

<sup>1</sup>Sardar Syedna Taher Saifuddin ... vs The State Of Bombay on 9 January, 1962

1962 AIR 853, 1962 SCR Supl. (2) 496

<sup>2</sup><https://www.gktoday.in/gk/articles-25-28-and-right-to-freedom-of-religion-in-india/>

<sup>3</sup>Manmeet Singh vs State Of Haryana And Ors on 20 May, 2016

<sup>4</sup>J.S. Chikkannavar vs Venkatesh on 4 November, 1988

for social and cultural education. Every Legislation of the world should be enacted in order to encompass these fundamental rights and duties of every government in relation to the practice of FGM. Some of them are as the following:

- There is a duty of modifying customs which are discriminating, especially against women;
- Duty to abolish practices that are both mentally and physically harmful to children; also, the duty to ensure and encourage health care
- Public access to health information is also a big step as a duty of government