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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **CRITICAL ANALYSIS OF FEMALE GENITAL MUTILATION ON WOMEN'S HEALTH**

AUTHORED BY - AC NARMITHA

## **ABSTRACT:**

FGM is a dangerous traditional practise that involves either the partial or entire removal of external female genitalia or other injuries to the female genital organs for non-medical reasons. It is largely seen as a violation of human rights and is prevalent around the world, especially in Africa, Asia, and the Middle East. The World Health Organisation (WHO) estimates that over 200 million girls and women alive today have undergone some form of FGM. The practice is strongly ingrained in social and cultural ideas, and it is frequently viewed as a rite of passage into womanhood, a method of controlling female sexual desire, and an obligatory condition for marriage in some societies. FGM involves a number of negative medical and psychological consequences, such as extreme pain, bleeding, infection, infertility, and even death. It also fosters harmful gender stereotypes and maintains gender inequity. Efforts to eradicate FGM have been continuing for decades, and some progress has been made. Many nations have implemented legislation prohibiting the technique, and advocacy and awareness-raising activities have managed to change views regarding FGM in some communities. However, considerable effort has to be done to eradicate FGM internationally. Effective interventions need a broad approach that includes collaborating with communities, governments, medical professionals, and other stakeholders to address the underlying cultural and societal issues that contribute to the practice's perpetuation. FGM prevention necessitates a holistic strategy that addresses underlying cultural attitudes, improves access to education and healthcare, strengthens legal frameworks, and empowers women and girls to make educated decisions about their bodies. While some nations have achieved progress, more effort is needed to guarantee that all women and girls are free from the negative effects of FGM. The role of fathers in decision-making could free mothers of the social pressure and obligation of carrying on traditions, creating a more suitable environment for abolition of FGM/C practise.

**KEYWORDS:** Female genital cutting/mutilation, Non-Medical reasons, Societies, Human Rights, Decision-Maker.

## I. INTRODUCTION

Female genital mutilation (FGM/C) is one of the most ancient and deeply rooted harmful practises in the world. It is described as "all procedures involving partial or total removal of the external female genitalia or other injuries to the female genital organs for non-medical reasons"<sup>1</sup> by the World Health Organisation (WHO). It causes lifelong suffering for women and girls, as well as health inequality, by causing long-term physical, mental, and sexual problems in females who are exposed to the practise (severe pains, bleeding, death, kidney failure, infertility, difficulties during childbirth, fetal distress, newborn death, and/or maternal death). FGM/C causes behavioural disruptions and a loss of trust in girls, as well as long-lasting effects in women (depression, a sense of incompleteness, and an inability to articulate their anxieties).

The World Health Organisation (WHO) and the United Nations Children's Fund (UNICEF)<sup>2</sup> (1997) classify it into four main types: "Clitoridectomy" or Type I surgery, which involves the removal of the clitoral prepuce "the hood" or/and the removal of all or part of the clitoris, Type II is clitoris removal with excision of part or all of the labia minora, "infibulation" or Type III is the excision of part or all of the external genitalia with stitching in or narrowing of the vaginal opening, Type III is the most intrusive and destructive form among the others. Type IV is categorised as unclassified, and it refers to any additional damaging treatments or injuries to the genitalia that fit within the description of FGM/C.

Despite the fact that FGM/C constitutes a human rights violation, it was projected in 2016 that at least 200 million females in thirty nations were victims of it. Furthermore, the WHO (2018) projected that over three million girls are at danger of having their cervix circumcised each year. Females affected by it are largely concentrated in 30 underdeveloped nations in Africa, the Middle East, and Asia. Furthermore, the WHO (2001) noted that it is practised in the United Kingdom, Europe, North America, and Australia as a result of immigrants who practise it in their home countries. Initiatives, protocols, guidelines, and tools for a socio-sanitary response to FGM in the around the world context. Nonetheless, the fact that it is a traditional practise profoundly established in the societies in which cutting is practised severely limits its visibility,

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<sup>1</sup> Eliminating female genital mutilation: An interagency statement - OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, Unifem, who (1970) World Health Organization. World Health Organization.

<sup>2</sup> Female genital mutilation (2018) World Health Organization. World Health Organization.

identification, and possibilities to engage with women at risk or already affected by FGM.

Thus, education and know-how are necessary to identify both the amount of danger and a way of dealing with family and community values and beliefs. In this light, the inclusion of the diagnostic "Risk of Female Genital Mutilation" in the following edition of NANDA-International 2018-2020 emphasises the importance of nursing and obstetrics in the early detection of both risk as well as final cases of FGM. However, these recommendations would be insufficient without an in-depth knowledge of the socio-cultural importance of FGM, its health repercussions, and the perspectives and needs of women who have survived this form of traditional practise. The impacts of FGM fall into three categories: obstetrical, gynaecological, and psychosocial (particularly sexual activity). Chronic vaginal and pelvic infections, painful sexual intercourse, scarring, recurrent cystitis, urethritis, menstrual abnormalities, infertility, and psychological trauma (such as poor libido, sadness, and anxiety) are all long-term effects of FGM.

It additionally increases the possibility of pregnancy problems, infant death, and future surgical procedures. They may need to have many sequential treatments following childbirth, such as stitching, which increases both the immediate and long-term dangers. Infection is common in FGM type III. As a result, it is thought that FGM is a risk factor for genital problems. Before devising an intervention to enhance men's and women's awareness about how FGM might be reduced, it has become more and more common, and numerous studies in other contexts have been undertaken on it. FGM has been the subject of systematic review studies, which have discovered certain issues but failed to explain all of the repercussions. The WHO emphasises zero tolerance for FGM. Systematic reviews are the most reliable sources of scientific evidence.

## **II. BACKGROUND**

It is the most intensive operation and has the most significant negative health consequences. It involves eliminating the whole clitoris as well as the entire labia minora and the medial sections of the labia majora. The latter structures are subsequently approached (depending on the operator) with thorns, catgut, or silk sutures. This causes the genitalia to be occluded, leaving a small opening for urine and menstrual blood to flow through.

FGM has been identified as a practise performed in various places throughout the world. It is

predominantly practised by distinct ethnic groups in more than 28 African nations. The practice is strongly ingrained and common, particularly in nations with strong ties to the Islamic religion. Various small studies from various nations reveal varying levels of FGM. Ethiopia (92.3%), Sierra Leone (81.2%), Rural Gambia (58%), Ravansar (Iran) (55.7%), and Nigeria (34%). East African nations where FGM is prevalent include Somalia (98%), Djibouti (93%),. The prevalence of FGM in Ethiopia varies according to ethnic background and geography<sup>3</sup>.

Tradition, religion, and societal pressure are clearly the driving forces behind FGM. FGM is necessary in certain ethnic groups, while in others, women who didn't undergo the procedure may find it difficult to marry. Respondents from countries where FGM is commonly practised felt that the Islamic religion sanctioned FGM. Individuals who did not follow the practices were seen as violating their religion and the Qur'an. An act of loyalty or honour to religious teachings, ensuring that incorrect sexual behaviour among females is kept to a minimum for society's acceptance, and boosting male sexual satisfaction. FGM is an essential element of the rituals of the transit event, which marks the female child's coming of age. It is deeply established in society, and eliminating it necessitates a thorough grasp of the cultural perceptions and ideas that it feeds on.

The procedure is performed without anaesthetics and in extremely unsanitary conditions. To cure the wound, mixtures of indigenous plants, soil, cow dung, ash, or butter are utilised. Excessive bleeding during the surgery, difficulty urinating, shock during the procedure, vaginal ulceration, and harm to neighbouring tissue were all recorded as acute consequences. FGM causes fibrosis, keloids, synechia, and clitoral neuromas, and the risk increases progressively from type I to type II. Births to FGM women are substantially<sup>4</sup> more likely to be complicated by caesarean section, postpartum haemorrhage, episiotomy, a longer maternal hospital stay, baby resuscitation, and inpatient perinatal death than births to non-FGM women. Prolonged labour is substantially more common in women who have had type I or II FGM. Women with FGM types II and III were considerably more likely than women without FGM to have a caesarean section and postpartum blood loss. Another long-term effect of FGM is difficult penetration during intercourse. Some of the females are unaware that they would be cut. FGC

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<sup>3</sup> del Mar Pastor-Bravo, M., Almansa-Martínez, P. and Jiménez-Ruiz, I., 2018. Living with mutilation: A qualitative study on the consequences of female genital mutilation in women's health and the healthcare system in Spain. *Midwifery*, 66, pp.119-126.

<sup>4</sup> Windle, S., Kamanu, C., Anyanwu, E. and Ehiri, J.E., 2009. Harmful traditional practices and women's health: Female genital mutilation. *Maternal and child health: Global challenges, programs, and policies*, pp.167-189.

is done on these females on the spur of the moment, with no mental preparation, celebration, or fanfare. Girls in this scenario may experience emotional harm. In other circumstances, nurses and doctors execute FGC under anaesthesia in their offices in order "to protect" girls from difficulties. On ethical considerations, the international medical community firmly opposes medicalizing FGC.

### **8. REASONS FOR FGM/C**

Mothers and other family members are aware that FGM/C might cause medical and psychological problems in their daughters. They do, however, see it as a legitimate approach to nurture and safeguard their girls for maturity and marriage. The people think that FGM/C is a social commitment that must be fulfilled in order to avoid humiliation and social expulsion from their cultural group and community. It's a self-enforcing social convention. The mental map depicts some of the interconnected variables that contribute to the continuance of this practice in society. The English phrase "female genital mutilation" first appeared in the 1970s and quickly became controversial, as parents hated the implication that they were mutilating their daughters. After the United Nations addressed the risk of demonising specific cultures and customs in 1999, the term "cutting" has become more often used to prevent alienating communities, therefore the usage of the more inclusive abbreviation FGM/C. There are other non-cultural and non-historical causes for the continuation of FGM/C. People in Mali, Burkina Faso, and the rest of West Africa, for example, view the clitoris as a harmful organ that must be removed. According to this viewpoint, the clitoris is dangerous and will make a man sick or kill him if it comes into contact with his genitals. Other myths hold that an uncut clitoris causes male impotence and kills kids after childbirth. FGM/C is also seen as a technique to reduce a woman's libido and help her avoid sexual activity by stopping her from acting promiscuously, making her more desirable to her future spouse.

## **IV. ERADICATING FEMALE GENITAL MUTILATION/CUTTING AS HUMAN RIGHTS VIOLATIONS**

According to the 2008 UN interagency statement, FGM/C is a violation of human rights, a form of gender discrimination, and a form of violence against girls<sup>5</sup>. Several human rights specified in the Universal Declaration of Human Rights, the Convention on the Elimination of

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<sup>5</sup> Wadesango, N., Rembe, S. and Chabaya, O., 2011. Violation of women's rights by harmful traditional practices. *The Anthropologist*, 13(2), pp.121-129

All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child are violated by this practice. According to Article 3 of the Universal Declaration of Human Rights, everyone has the right to life, liberty, and personal security. Unfortunately, in many nations, women and girls do not have complete authority over their lives, liberties, or bodies.

CEDAW was adopted by the United Nations General Assembly on December 18, 1979, and went into effect on September 3, 1981. CEDAW identifies discrimination against women and lays down an agenda for international action to put an end to it. The fundamental idea of the agreement is that "discrimination against women violates the principles of equality of rights and respect for human dignity." Article 5 mandates nations to take steps to accomplish "the elimination of prejudices and customs and all other practices based on the idea of the inferiority or superiority of either sexes." The Convention on the Rights of the Child refers to children's ever-evolving ability to make decisions for themselves on issues that directly impact them. In the case of FGM/C, however, even when girls appear to agree to the treatment, the decision is a direct result of societal pressure and community expectations. As a result, a girl's decision to undergo FGM/C cannot be considered free, informed, or free of compulsion. One of the guiding principles of the Convention on the Rights of the Child is to prioritise "the best interests of the child." Some parents who choose FGM/ C for their daughters think that the benefits outweigh the risks involved. However, this view does not justify a permanent and life-changing practise that violates girls' fundamental human rights. The treaty expressly mentions harmful traditional practises such as FGM/C. The Committee on the Rights of the Child, as well as other United Nations treaty monitoring agencies, has repeatedly emphasised that FG-M/C is a violation of human rights and has urged states parties to take all necessary and appropriate steps to end the practise.

FGM/C violates a number of well-established human rights principles, norms, and standards, including the concepts of equality and non-discrimination on the basis of sex, the right to life (when the procedure results in death), the right to be free from torture and cruel, inhuman, or degrading treatment or punishment, and the rights of the child. FGM/C is also a breach of a person's right to the greatest possible level of health since it interferes with healthy genital tissue in the absence of medical need and can have serious effects on a woman's physical and mental health. Although many countries throughout the globe recognise FGM/C as an act of violence against women and children and a violation of human rights, the problem is filled with

controversy since the practise has become deeply ingrained in culture and custom, making laws difficult to adopt and implement<sup>6</sup>.

## **BI LEGISLATION AND RESISTANCE**

Since 1965, 24 of the 29 nations with the highest prevalence of FGM/C have based their legislation on human rights. The penalties vary from three months in imprisonment to life in prison. Several governments also levy monetary penalties. Twelve wealthy nations with large FGM/C populations have also approved legislation criminalising the practise. Some regulations prohibit FGM/C from being performed in government health institutions or by medical practitioners. Some countries criminalise FGM/C only when it is performed on children<sup>7</sup>, whereas others criminalise it in all circumstances. Fines may be imposed solely on practitioners or anybody who is aware of the situation but does not report it. The crime may involve just cutting within the nation or bringing a female to another country to have it done.

International law protects the right to engage in cultural life as well as the right to religious freedom. However, international law states that the freedom to express one's religion or views may be subject to restrictions in order to preserve the basic rights and freedoms of others. As a result, societal and cultural arguments covered by Article 4 of the International Covenant on Civil and Political Rights cannot be invoked to justify FGM/C. Legislation is an essential instrument for eliminating FGM/C because it may disrupt the conventional status quo by giving legitimacy to new behaviours, but it is ineffective unless it is supported with measures aimed at modifying cultural customs and expectations. If FGM/C is to be totally eliminated, African communities and foreign aid organisations must collaborate at the grassroots level to assess the practice's ramifications<sup>8</sup>.

## **V. CONCLUSION**

FGM/C is an expression of gender inequality, and women's empowerment is essential to the practise's abolition. A number of documented programmatic, scientific, and policy interventions are being conducted by a variety of national and international non-governmental

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<sup>6</sup> Shah, P., 2015. Cutting female genital mutilation from the United States: A European-influenced proposal to alter state and federal legal responses when affording relief to Somali victims in Minnesota. *Cardozo JL & Gender*, 22, p.583

<sup>7</sup> Broussard, P.A., 2009. The importation of female genital mutilation to the west: the cruelest cut of all. *USFL Rev.*, 44, p.787.

<sup>8</sup> Nour, N.M., 2008. Female genital cutting: a persisting practice. *Reviews in Obstetrics and Gynecology*, 1(3), p.135

organisations and UN agencies to urge communities, families, and individuals to discontinue FGM/C.

These initiatives have included community and leader advocacy and education, legislative interventions, capacity-building interventions, health care interventions, media interventions, and community dialogue. Addressing FGM/C through education highlights the human rights of girls and women, as well as the disparities in treatment of boys and men.

Empowerment, community initiatives, and understanding about the health consequences of FG-M/C all have a favourable association. Responding to the needs and goals of communities is critical to winning people's trust and making change meaningful.

