

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

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FEMALE GENITAL MUTILATION **AROUND WORLD AND HUMAN** **RIGHTS CONCERNS**

AUTHORED BY - AKSHARA P KAMATH

ABSTRACT

In the matter of religion and, most notably, traditions, humans always take total responsibility for things done! From a closer viewpoint, various shades of ancient traditions, deeply rooted in our culture and in the minds of people, can be described. Genital Mutilation (FGM), a really well-kept secret, that recently attracted a wide attention in India when many females from the DawoodiBohra group came hand in hand to initiate a virtual movement by petitioning against such kinds of religious practise and requesting the Prime Minister personally to interfere and rule it unconstitutional. It was not the first time, nevertheless, that FGM worldwide was brought in front of people and media. Previously in Somalia, supermodel Waris Dirie who'd been once a survivor of FGM, have spoken out against the rising percentage in African countries of this excruciatingly painful practise and labelled it total abuse towards innocent children. By establishing the Desert Flower Foundation in 2002, Sheeven took initiative to initiate a campaign against this. It has currently been calculated that almost 200 million women and girls already endured genital mutilation in around 30 countries worldwide¹. In different cultures in Africa, Mid-East, and Asia the, it is mainly practised as an ancient custom. With the large spike in the amount of refugees, the practise of FGM is rapidly increasing in nations like Europe, North America, Australia, and New Zealand.²

The study aims to examine the most destructive practise faced by modern women in certain areas of the world in this context. Despite global attempts to eliminate female genital mutilation, 4 million

¹UNICEF, *Female Genital Mutilation(FGM)*, UNICEF(Oct.15,2020,10:04AM), <https://data.unicef.org/topic/child-protection/female-genital-mutilation/>.(last visted Oct 5, 2022).

²H. Rushwan, *Female genital mutilation: A tragedy for women's reproductive health*, 19 AJU 130-133(2013).

girls³ are exposed to this barbaric practise annually. An effort was made in this report to explain the prevalence and practice of FGM globally and its negative impacts on the physical health of individuals. The study further examines the Indian and global stand on Female Genital Mutilation as well as the Human Rights concerns related to FGM. The study also derives various suggestions by focusing on the lacunae of the issue.

Keywords: Female Genital Mutilation, Dawoodi, Bohra Human Rights, Religious Practice, Health implications, women, Foundation.

INTRODUCTION

What is female genital mutilation?

Female genital mutilation (FGM) is a practice that is practiced in young girls and women where their external genital areas or organs are modified, removed or operated⁴. The process is executed by a religious leader, town chief, or a medical practitioner with minimal experience with the help of a blade or broken piece of glass.⁵ In around 15 per cent of cases, infibulation, the most extreme type of FGM, includes removing the labia and amputating the vulva together; this procedure can even jeopardize the life of the victim⁶. The operation, unlike male genital mutilation, provides no established health benefits and is not conducted for medical reasons. FGM is generally known as a practice that breaches the human rights of an individual and raises health risks.⁷

Background

The background or origin of FGM is uncertain. In some cultures, FGM is performed as a religious obligation, evidence indicates that FGM dates back Islam and Catholicism⁸. In the 5th century BC,

³WHO, *Female Genital Mutilation*, WHO (Oct. 15, 2020, 8:30 PM), <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation> (visited Oct 2, 2022).

⁴ UNICEF, *Supra* note 1.

⁵ *Id.*

⁶WHO, UNICEF, UNFPA, *FEMALE GENITAL MUTILATION 1-20* (illustrated ed. World Health Organization, 1997).

⁷ R. Shweder, *What about "Female Genital Mutilation"? And Why Understanding Culture Matters in the First Place*, 129 AAAS 203-232 (2000).

⁸ J. Llamas, *Female Circumcision: The History, the Current Prevalence and the Approach to a Patient*, MED VIRGINIA (Oct 16, 9:00 PM), <https://med.virginia.edu/family-medicine/wp-content/uploads/sites/285/2017/01/Llamas-Paper.pdf> (last visited Oct 5, 2022).

some historians traced the custom from Egypt and contend that the regional spread of FGM indicates that it began mostly on western shores of the Red Sea.⁹

Egyptian mummies reveal infibulated women also in the British Museum a Greek papyrus dated back in 163BC supports the same. In the 2nd century BC, a Greek historian and geographer recorded that a community which resided on the east shores of the Red Sea used to practice genital mutilation in their own wives in "Egyptian style" and some other community also used to practice genital mutilation on infant girls" cut off the whole portion in infancy with razors that others circumcise." ¹⁰Oddly, today FGM is attributed to in Sudan namely as "Pharaonic circumcisions" (which means Egyptian), and in Egypt it is known as or said to as "Sudanese circumcision."¹¹

There definitely does seem to be a connection among FGM and enslavement. Certain anthropologists claim that African herders near the equator have practiced FGM to shield female shepherds from rape, or "an essential component of human sacrificial rituals, or some initial effort at birth control."¹²

Currently, FGM is a strengthened phenomenon that exists in "African Sudanic Belt". The practice is distributed through large communities, and it is speculated that perhaps the custom might just have evolved between diverse communities separately.¹³

According to the statistics recorded by UNICEF over 200 million women and even young girls were subject to genital mutilation in about 30 nations all around the globe. It is performed primarily as ancient tradition in different African, Asian, and Middle East cultures. Furthermore, with the massive rise of refugees, FGM has become an escalating trend of Europe and many other countries like Australia, New Zealand and North America.¹⁴

⁹ *Id.*

¹⁰ ROSEMARIE SKAINE, FEMALE GENITAL MUTILATION 1-100(Jefferson, N.C.: McFarland 2005).

¹¹ Salaam, T. (2004) *Female Genital Mutilation (FGM): Background Information and Issues for Congress.* <https://elibrary.slsh.edu.in:2094/HOL/P?h=hein.crs/crsaiqc0001&i=1>. (last visted Oct 1, 2022).

¹² International Federation of Medical Students Association, *IFMSA Policy Document Abolishing Female Genital Mutilation*, IFMSA (2018),https://ifmsa.org/wp-content/uploads/2018/09/GS_AM2018_Policy_FGM-C.docx.pdf. (last visted Sept 20, 2022).

¹³ Slack, A., Female Circumcision: A Critical Appraisal. *Human Rights Quarterly*, 10(4), 437-486 (1988). doi:10.2307/761916.

¹⁴ UNICEF, *Supra* note 1.

Reasons behind FGM

It is clear that FGM / C is largely widespread in African and Middle Eastern countries, where a number of females have endured this practice, as per several United Nations records¹⁵. It can also be seen in some Asian and Latin American nations. Of the 29 nations in Africa and the Middle East, 26 have enacted laws to abolish this drastic and illegitimate tradition¹⁶. Surprisingly, India is among the countries that follows this practice. Later on, the Indian Stand on this problem will be discussed. While many still try to explain this purposeless practice, this ritual has been deemed premeditated, lethal and an incredibly insane 'custom' by many organizations.¹⁷The same was shown by several studies that prove that FGM / C has no benefits whatsoever.¹⁸Why is this awful tradition still in place, then?

FGM / C is primarily practised for sociocultural purposes, as per WHO. In order to be acceptable, FGM / C is a systemic phenomenon where people feel the need to adhere to certain social standards, which is the essential underlying explanation for the continuum of this phenomenon. The normalisation of traditional violence towards women, where girls and women are supposed to be raised up in a certain way, is fuelled by this practise. The societal values of what corresponds to womanhood and modesty are related to it. Even that tradition is not mentioned in any of religious manuscripts, similar to other cultural abuse. The adherents and the representatives of faith, however, believe and spread that faith is behind this atrocity. It is actually people's mythologies that lack the comprehension and knowledge of the implications of this crime. Social acceptance, religious faith, misapprehensions concerning sanitation, i.e. to preserve the chastity of a single woman, which makes the woman "marriageable" as well as to enhance male physical desire are by far the most widely mentioned factors practicing out FGM. For certain communities, FGM is deemed a prerequisite towards puberty, as well as a condition for wedding. It is even practiced in order to suppress the sexual impulses of a woman and to discourage promiscuity.¹⁹

¹⁵ *Id.*

¹⁶ Muthumbi, J., Svanemyr, J., Scolaro, E., Temmerman, M., & Say, L., *Female Genital Mutilation: A Literature Review of the Current Status of Legislation and Policies in 27 African Countries and Yemen*, AJRH, 19(3), 32-40(2015).

¹⁷ PS. Yoder, S. Wang, E. Johansen, *Estimates of Female Genital Mutilation/Cutting in 27 African Countries and Yemen*, 44. STUDIES IN FAMILY PLANNING, 189-204(2013).

¹⁸ N. Khalife, *Lasting Wounds: Female Genital Mutilation*, Bristol University Press, 239-248(2012).

¹⁹ S. Thompson, *why per se disability rule for hiv/ aids is both just and must*, 15 DJGLP 1-18 (2008).

METHODOLOGY

The researcher used the method of doctrinal research for this particular paper. Secondary data were obtained through multiple online and written sources, such as academic papers, documents, books, news reports, and other materials with the help of Legal Databases. The 1973 Bare Act of the Code of Criminal Procedure used to gain guidance on the process to be followed when pursuing jury trials in multiple types of criminal cases. Data that is collected from the multiple secondary data sources were analysed and recorded with a view to drawing a reliable hypothesis on the subject and providing further recommendations if necessary.

RESEARCH QUESTIONS

1. What is the Reason behind the custom of Female Genital Mutilation?
2. Whether FGM can be justified as a religious practice or not?
3. What are the Human Rights Concerns regarding FGM?
4. What is the International and Indian Stand on FGM?

RESEARCH OBJECTIVES

- To obtain a detailed understanding of important aspects of Female Genital Mutilation domestically with the help of case laws and Internationally with the help of provisions.
- To analyse Human Rights concerns related to FGM
- To analyse whether FGM can be justified as a religious practice or not?
- To evaluate and analyse whether any further changes are to be made in the provisions related to FGM.
- To derive various suggestions by focusing on the lacunae of the issue.

DISCUSSION

Types of Genital Mutilations

In 1997, WHO categorized the female circumcision into 4 distinct forms. P. Severity and risk factor

are directly linked to the form of FGM being done and the extent of tissue being cut.²⁰

The four main FGM forms, are:

Type 1. Partial or absolute amputation of Clitoris.

Type 2. It includes partial or absolute elimination of clitoris and one of the labia or both.

Type 3. This type is known as namely Infibulation which involves narrowing of the opening vagina by forming a sealing membrane. The sealing is created by removing and realigning the labia, inside or outside, with or without elimination the amputation of clitoris.

Type 4. Include all dangerous practices for non-medical uses of female genitalia, such as twitching, scratching, cauterization, grinding, and debridement.

It is found that over 90 percent of victims are subjected to type 1, type 2, and only 10 percent of victims of FGM are subjected were considered to be of type 3. The United Nations listed the removal of every means of Female Genital Mutilation as goal within aim 5 on gender equality in the Sustainable Goals of 2030. The "International Day of Zero Tolerance for Female Genital Mutilation" is celebrated every year on 6 of February. Under this topic the researching will be covering different types of FGM practiced by many ethnicities and how they are classified officials. This topic will also talk about the consequences and health risks of the specified practices.²¹

INDIAN STATUS ON FEMALE GENITAL MUTILATION

We are always fooled into believing that such a senseless activity is performed among tribal people in far-off countries like Africa. But the disturbing fact is that this horrific procedure takes place in the heart of India, Mumbai, where this procedure is continued by inexperienced midwives, bruising the Dawoodi Bohra community's young bodies and minds, a Shia sub group of Islam, they came to India back in the 12th century from Yemen. The populace of this group (Dawoodi Bohras) is reported to be 1,117,200(approx.) globally; they were primarily concentrated in 3 nations, including India, Pakistan and Sri Lanka, comprising total census of 1,113,000. When it comes to India they are mostly concentrated in the western namely Gujarat with a population of (694000),

²⁰WHO, *Types of Female Genital Mutilation*, WHO(Oct.15, 2020, 3:50 PM), <https://www.who.int/teams/srh/types-of-female-genital-mutilation>. (Last visited Sept 21, 2022)

²¹WHO, *Care of Women And Girls Living With Female Genital Mutilation*, WHO 1-25(2018). <file:///C:/Users/HP/Downloads/9789241513913-eng.pdf> (Last visited Sept 24, 2022)

Maharashtra with a population of 270000, and Madhya Pradesh with a population of 127000.²²

Even today, the Bohra community is illicitly carrying out one of the darkest secrets, 'Khatna' as called by the Bohra community, or FGM/C. In the context of custom, India has been one of the several countries that have exposed women and children to violence since historical ages. The Bohra girls are also the victims of one such custom, a ritual not found in the holy books anywhere. Those who do this unwaveringly, fail to grasp the distinction between the socially destructive do have an otherwise liberal community.

The Bohra group is distributed across Pakistan, Yemen, East Africa, and areas of America and Australia²³. Unfortunately, because of the legal actions taken against the practise in Australia and the US, India is becoming a centre for FGM / C. India still struggles, nevertheless, to acknowledge and resolve the nature of this activity. In 2017, for example, the WCD ministry led by Ms. Maneka Gandhi refuted the presence of FGM / C by arguing that no meaningful data existed. Thus, no clear laws towards FGM / C are available.

Provisions

That being said, provisions such as Sections 319 to 326 of the Indian Penal Code 1860[vii] and Section 3 of the s Protection of Children from Sexual Offence Act, 2012[viii], still are effective. In addition, to speak of precedents, it has been known in the past that 'penetration' may not always have to mean maximum penetration in sexual crimes. In Explanation 1 of Sec 375 of the Indian Penal Code, the word 'vagina' contains labia majora. Within Section 3 of the POCSO Act, read in Explanation 1 of Section 375 of the Indian Penal Code[ix], FGM / C may be covered. But, unconstrained and unregulated, the practice persists.

Furthermore, Article 15 of the Indian Constitution calls for the defence of individuals against discrimination on the grounds of sex, caste, race, place of origin and faith. This Article is breached

²²Joshua Project, *Bohra*, JOSHUA PROJECT (Oct. 20, 10:05 AM), https://joshuaproject.net/people_groups/16494. (Last visited Sept 18, 2022)

²³ Yasmin Bootwala, *A Review of Female Genital Cutting (FGC) in the Dawoodi Bohra Community*, CURRENT SEXUAL HEALTH REPORTS (Oct. 11, 2020, 9:00AM), <https://doi.org/10.1007/s11930-019-00213-y>. (Last visited Sept 24, 2022)

by FGM / C as it advocates systematic abuse towards girls and women of a specific religious group. Senior lawyer Abhishek Manu Singhvi, defending the Dawoodi Bohra Women for Religious Freedom, has argued in a latest plea²⁴ submitted in July 2018 to ban FGM / C that the ritual is an integral part of the faith and is covered in Articles 25 and 26 of the Constitution of India 1950. That being said, the supreme court has ruled that it is breaching Article 21 of the Constitution because it brings the female subject to the torment of female genital mutilation. A bench comprising of Chief Justice Dipak Misra, Justice AM Khanwilkar and Justice DY Chandrachud agreed on the same.

Dawood Bohra community performs this practice as a part of their religious rite in India. Bohra community are a group of Shias Muslims, who moved over the 12th century from Yemen to India. They are majorly settled in Gujarat, Madhya Pradesh and Maharashtra. Gujarat is the state which dominates in the population.

In the case of *Sunita Tiwari v. Union of India*²⁵ in which a PIL was filed by Sunita Tiwari demanding a ban on FGM. The Supreme Court ruled in November 2019 that the FGM dispute should be assigned to a bigger seven-judge panel, and therefore should be discussed amongst other women rights cases. The court found that FGM was a societal concern and therefore not a religious question.

There certain provisions in the Indian Penal Code, 1860 which deals with numerous forms of violence against women. IPC Section 319 to 326 PC addresses harm and egregious hurt different levels. As per WHO, the acute risk of FGM / C may include severe haemorrhage, inflammation of genital tissue, tissue repair complications, genital damage, the long-term effects of tissue, trauma and demise entail, urinary complications, genital troubles, menstrual issues, sexual issues, etc. and hence individuals performing FGM / C can be charged pursuant to IPC.²⁶

In specific, IPC Sections 324 and 326 include detention and penalty provisions for "voluntarily causing harm" and "voluntarily causing grievous hurt". R.K Raghavan who was the Past Director CBI stated that while FGM / C is not specifically an offense as per the IPC, authorities are allowed to sign

²⁴ WP (C) 286/2017

²⁵ 2018 SCC OnLine SC 2667.

²⁶ Lawyers Collective, *Guide to Eliminating the FGM Practice in India*, LAWYERS COLLECTIVE (Oct. 15, 2020, 5:00 PM), <http://www.lawyerscollective.org/wp-content/uploads/2012/07/Female-Genital-Mutilation-A-guide-to-eliminating-the-FGM-practice-in-India.pdf>. (Last visited Sept 14, 2022)

a complaint within IPC section 326 on a report.

Section 3 of the POCSO Act, 2012 addresses, penetrative sexual assault on any child. There is proven precedent that penetration should not be full penetration in sexual crimes. In addition, Section 375 Explanation 1 IPC unequivocally specifies that labia majora involves the word vagina. FGM, which necessitates a sharp instrument to be inserted into a child's vagina, may be addressed by Section 3, POCSO Act perused with elaboration 1 of section 375 IPC.²⁷

Under Section 2(y)(i) of "the Goa Children's Act, 2003 (GC Act)", 'sexual abuse' is described as "various forms of intercourse; vaginal or oral or anal, use of objects with children;" and 'deliberately causing harm to children's sexual organs". FGM could be punished as per either of these clauses, while considering to the facts and background.

The National Children's Policy, 2013 (NPC) acknowledges and prioritizes the right of the child to health, security, growth as absolute rights. This contributes to providing protection for children from all types of crime, bullying, abuse and prejudice, or any behaviour that is damaging their personality or impeding their growth.²⁸

The globally funded Integrated Child Protection Scheme (ICPS), which was initiated by the Ministry of Women and Child Development in 2009, intends towards promoting and building an effective structure for the protection of exposed kids.

Under this topic the research will cover the Indian perspective on FGM with the help of case laws and the suggestions regarding the same.

²⁷R. Conroy, *Female genital mutilation: Whose problem, whose solution*, 333 BMJ 106-107(2006).

²⁸ I. Askew, T. Chaiban, B. Kalasa, P. Sen, *A repeat call for complete abandonment of FGM*, JME, 619-620(2016).

WHETHER FGM CAN BE DEFENSIBLE AS A RELIGIOUS RITUAL?

In several cases, the tradition of FGM has frequently been related to a custom reflecting the advent of puberty as well as the acceptance of women.²⁹ In a survey performed amongst people in the Bohra community³⁰ it was observed that spiritual standards, culture, convention and the urge to suppress the modesty of a girl Child.

The constitution of India grants, the constitutional right to freedom of religion as well as the right to handle religious practices, which is set out in the Articles 25³¹ and 26. The human right to liberty of faith is set out in article 25. In this sub-topic the researcher will answer the question and will give a conclusion as a final note with the help of some Landmark Judgements in India.

Female genital mutilation is a practiced to suppress the sexual impulses of young women and contributes to adverse health consequences. Females are seen as subjects of sensual impulses are required to be curtailed. This practice is unlawful because women and girls are stereotyped by sexuality and thereby breaching their fundamental rights in compliance with Articles 14 and 15. Such a practice victimizes women in the robes of faith and the object of protection for women and breaches their right to physical autonomy, to regulate their individual bodies and to be shielded from abuse and emotional distress, therefore violating the right to life provided by Article 21 of the Indian constitution. The bigotry of gender is counter to the ideals of parity as protected by the Indian Constitution.

In *Anuj Garg v. Hotel Association*³², the Supreme Court in the matter of Punjab Excise Act Section 30, that barred the recruitment of every male under twenty - five years of age as well as any female in every sector of an institution wherein alcohol or any other alluring drug is eaten, dismissed the conventional claims of gender related matter wherein the excuse of protection of women was asserted.

²⁹ UNFPA, *Implementation Of The International And Regional Human Rights Framework For The Elimination Of Female Genital Mutilation*, UNFPA 1-88(2014).

³⁰ Jacinta K. Muteshi, Suellen Miller, and José M. Belizán, *The ongoing violence against women: Female Genital Mutilation/Cutting*, 13 US NATIONAL LIBRARY OF MEDICINE 1-4(2016).

³² 2008 (3) SCC 1.

The Court noted that: The impugned statute, in the account of defence, ends up victimising its subject matter. So in this context, the intervention imposed by the Government for the purposes of security ought to be adequate to the legitimate objectives. Gender parity is widely regarded today in the European Court as among the main concepts guiding the Convention and an aim to be accomplished by the Council of Europe's Member States.³³ It is up to the Court to analyse whether the majority of pacifist tendencies are embedded in moralism. This is the context of closer judicial oversight of certain laws worldwide. Thus, one problem of imminent significance in such instances is the influence of conventional societal beliefs as well as the situation of the overall atmosphere in society that women have to face when selecting for jobs that is otherwise totally harmless to the male equivalent. In that case, the Supreme Court ruled that it is the duty of the Court to decide if the initiatives put forward by the government in the form of an edict for the purpose of enhancing the legitimate role of defending the rights of women were proportionate to the other majority of well-established social norms, like sovereignty, equal opportunities, privacy rights. In this regard, the fact of the matter will be a working liberal free democracy that guarantees liberty to seek different possibilities avoiding discrimination pertaining the context of sex, race, caste or indeed any similar grounds. Within Article 26³⁴ right to freedom of religion to administer one's spiritual institutions is assured. Such liberty is, nevertheless, still liable to maintain law and order, ethics and health.

In the matter of *Sri Adi Visheshwara of Kashi Vishwanath Temple v. State of UP*³⁵, the court ruled that: The purpose of the law is to eradicate social problems and inequalities for the sake of social harmony, order, prosperity and development in an equitable society. Untouchability, for example, was thought to be aspect of Hindu religious ideology. But it is condemned by human and civil rights and prohibited by Article 17 of the Indian Constitution and its existence in just about any usage is an offence unlawful underneath the Civil Rights Protection Act. The object of Article 17 is accomplished by Article 15(2) as well as other associated regulations.

FGM practise is liable to constitutional ethics, irrespective of whether or not it is a religious tradition of the Bohra community, and the Bohra community must adhere to the constitutional principles of equality and freedom from discrimination. In accordance with Article 26, certain activity would not

³³ Els Leye, Lut Mergaert, Catarina Arnaut, & Sioban O'Brien Green, *towards a better estimation of prevalence of female genital mutilation in the European Union: Interpreting existing evidence in all EU Member States*, 70 GENUS 99-121(2020).

³⁵ 1997 (4) SCC 606.

be covered. gender justice i.e., prohibition of discrimination, is fragment of India's constitutional morality. As pointed out previously, to the degree that it runs contrary to gender equity, the practise of FGM is unconstitutional of Articles 14 and 15. It also violates the Indian Constitution's Articles 25 and 26 as it starkly contrasts to moral law.

INTERNATIONAL STATUS ON FGM

FGM / C is widespread across all continents, as described above, and is not limited to Africa alone. Nevertheless, numerous nations are coming up with successful laws to resolve this problem of international importance. Although several countries do not have clear laws prohibiting this tradition, in the same case, punitive provisions which apply. For example, India has no clear legislation, nor has it outlawed the FGM / C activity, but it is known as a criminal offence and child molestation, and offender can be punished to a max of seven years. Although there are still no laws in several countries in Africa to regulate this tradition, some have enacted clear laws to abolish FGM / C. A few of the countries in Africa like Cameroon, Congo, Guinea Bissau really have no clear legislation to deal with FGM / C are, but the penal provisions are acceptable. Australia, the United States of America and Sudan have effectively banned this practise.³⁶

Kenya has made this practice illegal with a maximum of 3 years' detention with or without a penalty of \$2000 USD, by passing the law, Prohibition of FGM Act, 2011. The practice of FGM has witnessed a steady decline since the enactment of these laws in 2011. Even so, in mitigating this practise along the borders, Kenya still stands ineffective. Although the law bans cross-border FGM, Kenyan laws are impotent to guarantee that this 'custom' is fully eradicated.³⁷

In countries such as Mauritania and Liberia, although FGM has been made illegal, the penalties are only for victims under 18 years of age, thus making the legislation obsolete. In addition, for these crimes, there are no clear rules and penalties. On a case-to - case basis, the sentences are determined. These were some of the descriptions of the law's status around the world with pertaining to FGM / C.

³⁶ S. Nazeer, *Female Genital Mutilation: A violaton of Human Rights*, 7JPSPA 341-344(2017).

³⁷Fisaha KG, *Female Genital Mutilation: A Violation of Human Rights*, 4 JPSPA, 1-6(2016).

Human Rights Violation

Female genital mutilation (FGM) is globally viewed as a serious breach of girls' and women's human rights. Similarly, many famous scholars have talked about the breach of human rights by FGM. For instance, Efua Dorkenoo³⁸ believed that FGM was an absolute representation of discrimination and Violation of Human Rights with the intent to control the identity and equality of women.³⁹

Right to Health

Global human rights law and " the Universal Declaration of Human Rights (1948) " states that it's the right of an individual who is living in this world to live in an environment which allows them to enjoy good health and medical-upkeep amenities. Complications related to the FGM operation results in harsh long-term health implications for women. All forms of FGC have technique associated safety complication as it is implemented by non-professionals without healthcare amenities employing unhygienic tools.

Right of a child

The victims of FGM varies from babies to young girls to adults. United States of America, Ethiopia has also claimed that FGM breaches the Child rights since they are commonly practiced on girls at an age of 17 or below. FGM contravenes Article 3 of "The United Nations Convention on the Rights of the Child".⁴⁰

Right to Sexual and Physical Integrity

FGM is practised without explicit consent of children and women. An unwanted intrusion of the body of an individual constitutes violation of the fundamental right. The reason behind the custom of FGM is that the society deems femininity to be rather hazardous and must be regulated. Women who were subjected to infibulation endure traumatic intimacy throughout their lives, and hence there is no sexual fulfilment including the instances where there would be no pain.⁴¹

³⁸Llamas, *Supra* note 8.

³⁹ E. Dorkenoo, *Combating Female Genital Mutilation: An Agenda for the Next Decade*, 27 WOMEN'S STUDIES QUARTERLY, 87-97 (1999).

⁴⁰ S. Hellsten, *Rationalising Circumcision: From Tradition to Fashion, from Public Health to Individual Freedom*, 30 JME 248-253(2004).

⁴¹ C. Choudhury, *Beyond culture: Human rights universalisms versus religious and cultural relativism in the activism for gender justice*, 30BJGLJ 226-267(2015).

whatever the motive for their operation, FGM is a Common adverse activity in contravention of the rights and integrity of Women and children, wellbeing and lifetime rights (in the case of Practice leads to death), gender, and personal rights.⁴²

CONCLUSION AND RECOMMENDATIONS

The present analysis indicates that the custom of FGM remains widespread in some nations, whilst rules prohibiting FGM prevail. During the last decade the removal of FGM has rendered no progress. Perhaps this is attributable to the reality that developing countries are having trouble recognizing the social and spiritual complexities of FGM practiced by cultures and groups. While activist protests have started in Africa, by implementing meaningful changes in society, the use of an intervention approach that recognizes the different cultural complexities will improve the results.⁴³

There exist some laws in Indian law for punitive conduct towards any event of injury, but there is no clear reference in our legislation of FGM and the practise goes completely ignored. Globally, it is proven that it is important to provide a particular provision dealing with this issue, addressing not only enforcement, but also mitigation, literacy, public awareness, response and rehabilitation. Therefore, the debate here is definitive that, for the exact same reason, a specific law on FGM is vital, such that, to reveal the concern and fix it as a detrimental criminal activity and not regarded as an appropriate religious practise.

⁴²E. Dorkenoo, *Cutting The Rose: Female Genital Mutilation : The Practice & Its Prevention*, MINORITY RIGHTS PUBLICATIONS 1-50(1996).

⁴³ Beth D.W Breault, *Eradicating Female Genital Mutilation/ Cutting*, 20 HEALTH AND HUMAN RIGHTS 223-233(2018).