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FEMALE GENITAL MUTILATION IN INDIA: UNVEILING THE URGENT NEED FOR LEGISLATION AND HUMAN RIGHTS PROTECTION

AUTHORED BY - SHUBHAM VASHIST

Abstract-

Female Genital Mutilation (FGM) is a harmful practice affecting millions of girls and women worldwide. This research paper delves into the complex issue of FGM, primarily focusing on its existence in India within the Dawoodi Bohra Muslim community. Through a comprehensive analysis of historical, cultural, religious, and legal aspects, the paper explores the origins, reasons behind its practice, and the prevailing global and Indian context.

The research paper presents evidence of the continued practice of FGM within India, challenging the government's official stance of denial. It highlights the physical and psychological consequences faced by victims and emphasizes that FGM infringes upon fundamental human rights, including the right to privacy, bodily autonomy, and equality. Furthermore, the paper discusses the legal framework in India, showing how FGM can be prosecuted under existing laws such as those addressing grievous hurt and child protection.

The paper evaluates international precedents and emphasizes the global consensus against FGM, showcasing the need for coordinated efforts to combat this practice. It underscores India's obligation, as a signatory to the UN's Sustainable Development Goals, to eliminate FGM by 2030. In conclusion, this research paper advocates for urgent legislative measures to criminalize FGM in India, aligning with international standards. It argues that FGM violates the principles of gender equality, bodily autonomy, and individual rights, and must be treated as a severe violation of human rights. By analyzing legal, cultural, and human rights perspectives, this paper contributes to the ongoing discourse surrounding FGM, aiming to raise awareness and prompt action to eradicate this harmful practice from Indian society.

Introduction-

Female Genital Mutilation (FGM) is described by the WHO 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." A dictionary definition, however, falls short of expressing the full gravity of this horrible practice. The practice has no health benefits for girls and women and can cause severe bleeding, problems urinating, and later cysts, infections, as well as complications in childbirth and increased risk of newborn deaths.¹

There are four distinct classifications of female genital mutilation. Type I entails the partial or complete removal of the clitoris or clitoral hood, while Type II involves the inner and/or outer labia being partially or entirely excised, often accompanied by pricking or piercing. Type III comprises the narrowing of the vaginal opening through the creation of a seal, and Type IV encompasses all other harmful non-medical procedures performed on the female genitalia. Typically performed on girls on the cusp of puberty or sometimes even earlier, usually aged 1 to 15, Female Genital Mutilation poses a serious threat.

Why is Female Genital Mutilation practiced-

The origins of FGM are entrenched in complex cultural, social, and historical contexts. It is often perpetuated by deep-seated traditional beliefs, gender norms, misconceptions about religion, and a desire to control female sexuality. While practitioners of FGM may view it as a rite of passage, a cultural tradition, or a means of preserving family honor, the practice inflicts enduring physical and psychological trauma on its victims. According to a groundbreaking study titled 'The Clitoral Hood A Contested Site', some of the common reasons cited for the practice of FGM include:

1. Religious ritual:

Religious obligation was the most often reported reason for FGM in the study. The justification for FGM as a religious practice is hinged on notions of purity, and the control of women's sexual desire is viewed as a way to instill purity and piety in women. Most respondents were told about this by elder women in the family, or through other community members, including friends and/or members associated with the religious

¹ World Health Organization, <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>, (last visited Sept. 16, 2023)

institution (Aamil/ Aamil's wives). However, almost all respondents were unsure about the exact religious citations that require Bohras to perform FGM.

2. **Control of sexual behavior:**

FGM is utilized as a method to regulate the sexual conduct of females, including young girls. The practice is rooted in the belief that modifying or eliminating the clitoral hood would decrease the probability of women participating in sexual endeavors that occur beyond the confines of marriage. By modifying the clitoral hood, it is perceived that the experience of sexual gratification is diminished, thereby serving as a deterrent against engaging in sexual relationships before or outside of marriage. This practice is regarded as a mechanism for exerting control over the community, safeguarding familial structure, and preserving cultural and religious principles.

3. **Distinct identity:**

Some respondents believed that FGM is one of the ways Bohras maintain their distinct identity from other Muslim groups in India. It is seen as a cultural and religious practice that sets them apart and reinforces their sense of belonging within the community.

4. **Pressure from community members:**

Several respondents noted the influence exerted by family, acquaintances, and members of the religious community to guarantee the performance of FGM on girls. This influence may stem from the aspiration to adhere to community standards and anticipated behavior, coupled with apprehensions about being marginalized or criticized within society.

5. **Equating to Male circumcision and Hygiene:**

Some respondents in the study equated FGM/C to male circumcision and suggested that FGM/C is performed for reasons of physical hygiene, similar to male circumcision.

Now with the reasons explored, let us take a look at the pervasiveness of this practice.

Global Prevalence of FGM and its existence in India-

The international day of zero tolerance for female genital mutilation (FGM) is commemorated on February 6 and although the precise number of girls and women who have had FGM is unknown, based on data gathered from 30 nations, including Western, Eastern, and North-Eastern Africa, as

well as certain countries in the Middle East and Asia, the practice has impacted over 200 million currently living girls and women. Additionally, an annual estimate of more than 4 million girls is potentially exposed to the risk of FGM according to The United Nations Population Fund². The significance of this issue has grown to the point where UN Secretary-General Antonio Guterres issued a call to action this year, urging men and boys "everywhere to join me in speaking out and stepping forward to end female genital mutilation, for the benefit of all."³ Hence, FGM emerges as a matter of worldwide significance.⁴

India is also no stranger to this problem. Colloquially known as Khatna or Khafz, FGM has been a quiet practice in the Dawoodi Bohra Muslim group, as well as other smaller Bohra sub-sects including the Suleimani and Alavi Bohras⁵. The community in question traces its ancestry and ideological foundations back to Egypt and Yemen in the 10th and 11th centuries. Even though it is a tiny community, there are still more than 500,000 Indians within.

According to a survey and research published by Sahiyo in February 2017 titled 'Understanding Female Genital Cutting in the Dawoodi Bohra Community', eighty percent or 309 of the 385 survey participants responded that they had undergone FGC. Furthermore, 66% of them were between the ages of 6 and 7.⁶ Similarly, according to a WeSpeakOut against FGM study, 75% of the 83 female respondents had undergone some type of FGM, when they were young. A 2018 article by The Guardian relying on this study, claims that girls of the Bohra sect of Shia Muslims frequently undergo Type I and Type IV FGM in India, particularly in the states of Maharashtra, Kerala, Rajasthan, Gujarat, and Madhya Pradesh.⁷

In the past five years, the anti-FGM/C campaign in India, particularly WeSpeakOut and Sahiyo, have broken the long-standing silence of Bohra women over Khafd, politicizing it and removing

² UNICEF, <https://www.unicef.org/stories/what-you-need-know-about-female-genital-mutilation>, (last visited Sept. 16, 2023)

³ United Nations, <https://www.un.org/en/observances/female-genital-mutilation-day/message>, (last visited Sept. 16, 2023)

⁴ United Nations, <https://www.un.org/en/observances/female-genital-mutilation-day>, (last visited Sept. 16, 2023)

⁵ Laksmi Anantnarayan, Shabana Diler, Natasha Menon, The Clitoral Hood A Contested Site: Khafd or Female Genital Mutilation/Cutting (FGM/C), WESPEAKOUT (Sept. 16, 2023, 3:17 pm), https://narisamatamanch.org/wp-content/uploads/2023/06/Khafd-or-Female-Genital-MutilationCutting-FGMC-in-India_A-Report.pdf

⁶ Mariya Taher, Understanding Female Genital Cutting in the Dawoodi Bohra Community: An Exploratory Survey, Sahiyo (Sept. 16, 2023, 3:20 pm), https://sahiyo.org/images/resource-pdf/sahiyo_report_final-5.21.19.pdf

⁷ Kirti Bhargava, Does India Need A Law To Curb Female Genital Mutilation? What Has FGM To Do With Religion?, Outlook India, (Nov. 17, 2022, 5:08 pm), <https://www.outlookindia.com/national/does-india-need-a-law-to-curb-female-genital-mutilation-what-has-fgm-to-do-with-religion--news-238125>

it from the closely guarded domain of "privacy"; and while the media has been very responsive to their demands, the government's response has been very lackluster to say the least.

Current Situation in India-

Female genital mutilation has been deemed a violation of human rights by the United Nations, however, its persistence in India is evident. The practice endures, with young girls still being taken to midwives and doctors in hospitals linked to the Bohra community. In May 2017, union Women and Child Development (WCD) minister, Maneka Gandhi, publicly announced "We will write to respective state governments and Syedna, the Bohra high priest shortly to issue an edict to community members to give up FGM voluntarily as it is a crime under Indian Penal Code (IPC) and Protection of Children from Sexual Offenses (POCSO) Act, 2012. If the Syedna does not respond then we will bring in a law to ban the practice in India."⁸ Despite this, no progress has been achieved subsequently, and there is no political motivation to pass such a law. Adding to the predicament, in response to a Supreme Court question in a Public Interest Litigation case regarding FGM/C in India, the Ministry of Women and Child Development stated on December 29, 2017, "There is no official data or study which supports the existence of FGM/C in India."

This issue gained further prominence at the 41st session of the United Nations Human Rights Council's Universal Periodic Review (UPR); for the first time, India received a recommendation to regulate and make female genital mutilation (FGM) a criminal offense. Costa Rica, a fellow United Nations member, called on India to create a national strategy for addressing this issue. Their suggestion encompassed adopting the World Health Organization's official definition of female genital mutilation, imposing legal penalties for its practice, and implementing an international plan to eliminate it. At the session, more than 25 member states also made recommendations for India to implement greater measures for safeguarding women, girls, and children from all types of violence, including harmful customs and gender-based violence. It's interesting to note that India itself advised Guinea and Mali against FGM during the UPR.⁹ However, when it came to the practice at home, the government has hitherto failed to even acknowledge that FGM exists.

⁸ Moushumi Das Gupta, Govt will end female genital mutilation if Bohras don't: Maneka Gandhi, Hindustan Times, (May 29, 2017, 09:17 am), <https://www.hindustantimes.com/india-news/practise-of-female-genital-mutilation-should-be-banned-in-india-maneka-gandhi/story-kQhNA4rIYOLOTurkN5zAAM.html>

⁹ Masooma Ranalvi, Modi govt in denial about female genital mutilation in India. Collect data, let states ban it, ThePrint, (Nov. 23, 2022, 10:41 am), <https://theprint.in/opinion/modi-govt-in-denial-about-female-genital-mutilation-in-india-collect-data-let-states-ban-it/1230724/>

India is a signatory to the UN's Sustainable Development Goals, which state that Female Genital Mutilation needs to be eliminated by 2030. In light of this, let us now study the validity of FGM.

International precedents against FGM-

The global stance against Female Genital Mutilation has gained significant momentum over the years as awareness about its physical, psychological, and cultural implications has grown. Under international law, international conventions are treaties or agreements between countries. Their primary aim is to foster consensus among participating countries, enabling them to collaborate towards shared objectives, like for instance, eradication of racism from society.

In 2008, the World Health Assembly passed resolution WHA61.16, advocating for collaborative efforts across sectors like health, education, finance, justice, and women's affairs to eliminate FGM.¹⁰ The 2021 edition of the World Bank's "Compendium of International and National Legal Frameworks on Female Genital Mutilation"¹¹ indicates that 84 nations worldwide have domestic legislation that either specifically forbids FGM or permits FGM to be punished through other laws, such as the criminal or penal code, child protection laws, violence against women laws, or domestic violence laws. In addition to this, the United Nations has enacted various other conventions like the Elimination of All Forms of Discrimination Against Women, 1979, aimed at protecting women from all forms of discrimination.¹²

When considering the significance of international treaties and conventions in combatting the practice of female genital mutilation on a global scale, they effectively stimulate action within individual nation states. These agreements prompt the development of appropriate legal structures and frameworks to combat the issue. Following an upsurge in the number of incidents being reported, Australia¹³ and South Sudan¹⁴ recently implemented laws criminalizing the practice in their nations.

¹⁰ World Health Organization, <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>, (last visited Sept. 16, 2023)

¹¹ World Bank, Compendium of international and national legal frameworks on female genital mutilation (5th ed. 2021).

¹² UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>.

¹³ Crimes Act, 1900, § 45 (NSW)

¹⁴ The Penal Code Act, 2008, § 259

Change takes time, and the battle is only just beginning. Recent cases involving the Bohra community and FGM in countries like Australia, India, and the United States have brought the issue into public discourse. Recently, a nurse and a mother were convicted in Australia, and are set to go to jail which has led to chatter within the community and a decree from the Sydney Jamaat advising all Bohras against being in contempt of the country's law.¹⁵ The Netherlands provides an encouraging model, where collaboration among various stakeholders like medical professionals, educators, law enforcement, migrant organizations, and child abuse reporting centers, coupled with decentralized efforts, have yielded positive outcomes.¹⁶ Similarly, in Burkina Faso, over 175,000 girls were safeguarded from FGM in 2019 through community child protection initiatives that identified at-risk girls and organized them into adolescent groups.¹⁷

Now, let's delve into India's stance and approach regarding this issue.

India's position on Female Genital Mutilation-

As we have discussed previously, the official stance of the government regarding Female Genital Mutilation is that "there is no official data or study which supports the existence of FGM in India."¹⁸ Contrary to this stance, however, studies have emerged that have shown the opposite. Furthermore, with Costa Rica urging India to take proactive measures to combat FGM, there is now international scrutiny on the issue within India's borders.

At present, there is no legislation in place that expressly forbids this practice within the nation. In fact, any attempts to address it through legislation have been hampered by the government's unwillingness to acknowledge its widespread prevalence. In 2017, a human rights advocate named Sunita Tiwari initiated a writ petition¹⁹ challenging the constitutionality of this practice. A counter-affidavit was filed contesting the rationale behind this position. Due to the complex and multifaceted nature of the issue, particularly its significance within a religious context, it was referred to a larger Constitution Bench consisting of five judges in 2018. While specific questions

¹⁵ Bridie Jabour, Australia's first female genital mutilation trial: how a bright young girl convinced a jury, The Guardian, (Nov. 13, 2015, 6:28 am), <https://www.theguardian.com/society/2015/nov/13/female-genital-mutilation-trial-young-girl-convinced-jury-australia>

¹⁶ Pečiūrienė, J. (2013) Good practices in Combating female genital mutilation. Luxembourg: Publications Office.

¹⁷ UNICEF, <https://www.unicef.org/media/88751/file/FGM-Factsheet-2020.pdf>, (last visited Sept. 16, 2023)

¹⁸ Shalini Nair, No official data on existence of Female Genital Mutilation in India, Centre tells SC, The Indian Express, (Dec. 28, 2017, 07:16 am), <https://indianexpress.com/article/india/no-official-data-on-existence-of-female-genital-mutilation-in-india-centre-tells-sc-5001780/>

¹⁹ [WP (C) No. 286/2017]

were not outlined, this Bench was tasked with examining the matter comprehensively from all angles and determining the constitutionality of khatna. Eventually, in November 2019, the Supreme Court ruled that the issue of FGM should be referred to an even larger seven-judge bench and be considered alongside other women's rights matters.²⁰ However, as of now, a bench has not been convened in the apex court to hear this matter.

As such let us examine the constitutionality of Female Genital Mutilation in India within the current legal system with respect to the rights guaranteed to the citizens-

1. The Right to Privacy and Bodily Autonomy-

To begin, it is essential to examine whether the practice of female genital mutilation, known as khatna, infringes upon the right to privacy and bodily autonomy of the girls subjected to this procedure. In the landmark case of *Kharak Singh v. State of Uttar Pradesh*²¹, the Court emphasized that the right to life under Article 21 extends beyond mere physical survival, setting the stage for the recognition of the right to privacy. The definitive establishment of the right to privacy as a fundamental right came with the *K. S. Puttaswamy & Anr. vs. Union Of India & Ors.*²² case. The Supreme Court asserted that individuals possess the autonomy to make life choices, emphasizing that the state's role is to protect this autonomy, not dictate decisions. Justice Chandrachud, in his opinion, highlighted the importance of decisional autonomy, which encompasses an individual's capacity to make choices regarding their sexual and reproductive behavior.

Another relevant case in the context of bodily and reproductive autonomy is *Suchita Srivastava v. Chandigarh Administration*²³. In this case, the High Court directed the termination of a pregnancy involving a woman allegedly raped in a government welfare facility. The Court affirmed a woman's right to make reproductive choices as part of her personal liberty under Article 21, emphasizing the importance of respecting a woman's bodily integrity and dignity.

In summary, the practice of khatna, being non-consensual in nature, denies women their decisional

²⁰ HT Correspondent, Female genital mutilation petition pending before Supreme Court, Hindustan Times, (Nov 15, 2019, 01:53 am), <https://www.hindustantimes.com/india-news/female-genital-mutilation-petition-pending-before-supreme-court/story-rsHGOLu0z5eEg3aZjHYEIL.html>

²¹ AIR 1963 SC 1295

²² AIR 2017 SC 4161

²³ (2009) 9 SCC 1

autonomy over a highly consequential procedure; and as previously discussed, this procedure can lead to physical complications and psychological trauma and offers no positive impacts on a female's well-being; instead, it unleashes a cascade of detrimental consequences. Therefore, it can be argued that khatna violates the right to privacy and bodily integrity enshrined in Article 21 of the Constitution.

2. Child's Right to Privacy-

Now an important question arises: Do children possess the same rights to individual privacy and bodily autonomy as adults? This question must be considered, given that parents or guardians often make decisions on behalf of their children, such as the Hindu practice of mundan, or shaving a baby's first hair.

However, the Indian Constitution does not impose additional restrictions on Fundamental Rights based on age. Furthermore, unlike mundan, female genital mutilation represents an irreversible intervention with lasting physical and psychological consequences for girls even into adulthood. It also violates their decisional autonomy, which, as established, is a part of the rights guaranteed under Article 21.

3. Right to Freedom of Religion-

Articles 25 and 26, found in Part III of the Indian Constitution, ensure the freedom of religion for citizens. These articles reflect the constitutional framers' commitment to fostering secularism in the nation. However, it's pertinent to note that the concept of secularism in India allows for State intervention. This intervention was designed to address the divide between religious practices and societal norms, aiming to strike a balance between the two. As such, the freedom of religion outlined in Articles 25 and 26 is subject to other fundamental rights in the Indian Constitution, including Article 21, which Khatna endangers.

In the case of *Indian Young Lawyers Association v. State of Kerala*²⁴, the Supreme Court emphasized that when interpreting Articles 25 and 26, the concept of "morality" should be understood as "constitutional morality." It was further clarified that the assessment of "existing structures of social discrimination" should be done through this lens. Chief Justice Chandrachud,

²⁴ (2019) 11 SCC 1

in his concurring opinion during the Sabrimala judgment, emphasized the enduring value of constitutional morality, highlighting that it should not be swayed by passing trends or societal norms. He stated that once the foundational principles of human liberty, equality, fraternity, and justice are acknowledged, it becomes imperative that freedom of religion and the autonomy to administer religious matters must comply with and be subservient to these fundamental tenets of constitutional morality.

Therefore, the right to freedom of religion is not unqualified and is subject to limitations related to public order, morality, and health, as such the practice of FGM cannot be permitted to subsist.

4. The Essential Religious Practices Test-

The Supreme Court established the doctrine of Essential Religious Practices (ERP) to delineate the interplay between religion and the Constitution. It was determined that any practice considered 'essential' to a religion could not be subject to state regulation. In the case of *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*²⁵, the Supreme Court outlined the ERP test. It was emphasized that the courts had the responsibility to ascertain whether a practice possessed a 'religious' character based on presented evidence and the tenets of the relevant religion. Following this determination, the question arises as to whether the practice is an 'essential' and 'integral' component of the religion. The Court affirmed that freedom of religion encompassed both the freedom of religious belief and practice. In evaluating the essentiality of any practice, the Court must take into account the religion itself.

In this regard, the practice of khatna does not meet the criteria of an essential religious practice as it predates Islam and lacks endorsement from any Islamic source of law, a stance supported by prominent United Nations organizations such as WHO, UNFPA, and UNICEF, among others²⁶. Previous WHO reports have also arrived at similar conclusions.²⁷

To illustrate further, the Aga Khani Ismailis, who adhere to the same jurisprudence as Dawoodi Bohras and share the same religious text, Da'a'im al-Islam, trace their religious lineage back to

²⁵ AIR 1954 SC 282

²⁶Eliminating female genital mutilation: An interagency statement OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCHR, UNICEF, UNIFEM, WHO (2008). Geneva: World Health Organization.

²⁷ Al-Sabbagh, M.L. (1998) Islamic ruling on male and female circumcision. Alexandria: World Health Organization, Regional Office for the Eastern Mediterranean.

the Fatimid Caliphate when FGM was prevalent in the tenth to the twelfth century. Despite their shared Islamic law, the Aga Khani Ismailis have abandoned the practice of FGM.²⁸ Additionally, even Bohra community members residing overseas have been prohibited from practicing it, yet they remain within the religious community²⁹. This demonstrates that the practice is not deemed essential to the religion.

5. Right to Equality-

Often male circumcision, a requirement in the Islamic faith, is cited to argue against a selective ban on khatna, asserting it would violate the principles of equality under Articles 14 and 15. This argument falters due to its faulty reasoning. While a law banning khatna could be seen as an unreasonable classification between the sexes, it is essential to recognize the distinct physiological implications of circumcision for men and women.

Thus, just like a law advocating for women's representation in legislative bodies isn't rooted in stereotypical views of separate gender roles but rather aims to enhance their active engagement in politics and decision-making, a law prohibiting female circumcision acknowledges the existence of a societal context rooted in gender stereotypes and regressive beliefs regarding pre-marital chastity and would as such be a valid legislation. Furthermore, Article 15(3) allows the state to make special provisions for women and children.

Female Genital Mutilation constitutes a manifestation of gender-based violence, seeking to exert authority over and manage female sexuality. The aforementioned report³⁰ substantiates this by revealing that women subjected to the procedure reported diminished sexual satisfaction and heightened sensitivity in the clitoral region. Consequently, it is perceived as a method not only to physically deter what's considered "illegitimate" sexual activity but also to cleanse the minds and desires of girls of perceived impurity. Consequently, this practice, in its essence, violates the principles enshrined in Articles 14 and 15 of the Constitution, as it imposes unequal burdens on women solely due to their gender and hence it should be struck down.

²⁸ Kassamali N. Genital cutting. [ed.] Suad Joseph. Encyclopedia of Women & Islamic Cultures. Brill-Leiden, 2006, Vol. III, p 129–134.

²⁹ Sahiyo, <https://sahiyo.com/2016/03/08/notices-by-sydney-melbourne-and-londons-anjuman-e-burhani-trusts-on-khafd-khatna-or-female-genital-cutting/>, (last visited Sept. 16, 2023)

³⁰ Laksmi Anantnarayan, Shabana Diler, Natasha Menon, The Clitoral Hood A Contested Site: Khafd or Female Genital Mutilation/Cutting (FGM/C), WESPEAKOUT (Sept. 16, 2023, 3:17 pm), https://narisamatamanch.org/wp-content/uploads/2023/06/Khafd-or-Female-Genital-MutilationCutting-FGMC-in-India_A-Report.pdf

6. Causing Grievous Hurt & POCSO-

In India, when it comes to addressing different forms of violence, we turn to the Indian Penal Code of 1860. While the Penal code does not explicitly mention Female Genital Mutilation, it indirectly implies that it falls under Section 320, which deals with grievous hurt. Even R.K. Raghavan, the former director of the Central Bureau of Investigation (CBI), has emphasized that while FGM/C is not expressly prohibited by the IPC, the police are required to file a case under Section 326 of the IPC in response to a complaint.³¹

Under Section 320, any hurt that risks life or causes the victim to endure severe bodily pain for more than twenty days is considered an offense. Additionally, Section 326 of the Indian Penal Code, 1860, states that voluntarily causing grievous hurt using any weapon or instrument that can potentially cause death is also an offense. Since the immediate complication of FGM can include excessive bleeding (hemorrhage), genital tissue swelling, wound healing problems, injury to surrounding genital tissue, shock and death, those involved in practicing FGM could face legal action under Sections 319 to 326 of the Indian Penal Code.

Furthermore, Section 3 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) addresses penetrative sexual assault involving any person and a child. It notably defines this act to include the insertion of any object into a girl's vagina. It is recognized precedency that penetration in sexual offenses does not require full penetration. In fact, Explanation 1 of Section 375 of the Indian Penal Code explicitly states that the term "vagina" includes the labia majora.

Thus, Female Genital Mutilation, which involves inserting a sharp object into a child's vagina, would fall under the purview of Section 3 of the POCSO Act and in conjunction with Explanation 1 of Section 375 of the Indian Penal Code it should be banned and punished appropriately.

Conclusion-

Female Genital Mutilation/Cutting (FGM/C) is a cruel practice that, under the guise of "purity" and "cleanliness," seeks to suppress and control female sexual expression. Despite its religious and traditional associations, this act violates the human rights of girls and women, particularly

³¹ Rasheeda Bhagat, India: Ban this barbarous practice!, Stop FGM Middle East, (July 29, 2014), <http://www.stopfgmmideast.org/india-ban-this-barbarous-practice/>

since it often occurs when they are minors and cannot provide informed consent. FGM/C inflicts profound physical and psychological trauma on its victims. Subjecting women to such a distressing experience in the name of custom, religion, culture, social pressure, or mere aesthetics demonstrates a blatant disregard for the dignity and worth of girls and women in society. These practices tarnish the image of modern India, a nation committed to empowering its female population, and as such, they should be treated as serious crimes against the female body, governed by stringent laws.

Although we've discussed provisions in Indian law that address various forms of harm, there is no specific mention of FGM/C in our legal framework, allowing this practice to largely go unnoticed. Consequently, it is clear that a distinct law addressing FGM/C is urgently required to bring this issue to light and treat it as a harmful criminal practice, rather than accepting it as a religious custom. The Indian government must formulate comprehensive legislation and a strategy to eradicate this practice. This effort should involve engagement with practicing communities and all stakeholders, drawing from global best practices in combatting FGM/C. The strategy should encompass prevention, protection, prosecution, service provision, and collaboration.

