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ABOUT US

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Female Genital Mutilation: A Socio- Legal Approach

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INTRODUCTION

According to the World Health Organization (WHO), female genital mutilation or cutting (FGM/C) refers to "any treatments involving partial or complete removal of the external female genitalia or other harm to the female genital organs for non-medical reasons." The external genitalia of a girl or woman may be pierced, sliced, removed, or partially sewn shut during these treatments. Real-world usage is luring young girls between the ages of 6 and 8 with the promise of sweets or some other reward into an unknowing location where another lady crudely and unhygienically slices a portion of the clit with a razor or blade without anesthesia. The practice is more of a cultural one and has nothing to do with religion. Patriarchy has its roots in the very foundation of FGM. It comes from the idea that women's sexuality undermines the patriarchal system.

Women are considered "unclean" and "not suitable for marriage" in some conservative Muslim communities there until FGM, the intentional cutting or removal of a female's external genitalia, is carried out. According to the law, anyone who orders the treatment faces up to three years in prison and doctors who perform it risk up to seven years in prison if found guilty.

Reda Eldanbouki, a human rights attorney and director of the Women's Centre for Counseling and Legal Awareness in Cairo, claims that the ceremony is still frequently carried out under the guise of "plastic surgery" (WCGLA). According to Bishara Sheikh Hamo from the Borana Community in Kenya's Isiolo County, FGM can result in physical and mental health issues that later harm women.

Despite the fact that 24 of these countries have laws or other regulations against FGM, the procedure is nevertheless extensively practised, according to a Unicef survey conducted in 29 countries in Africa and the Middle East.

FGM is increasingly being carried out on neonates and infants, according to specialist and attorney Dr. Charlotte Proudman, in nations like the UK where it is prohibited. The girls aren't in school or old enough to report it, therefore it is "nearly impossible to detect," according to the authors.

A mother in London was recently convicted guilty of performing FGM on her three-year-old

daughter, making her the first person in the UK to get such a verdict. On March 8, she will be sentenced.

TYPES OF FGM

There are usually four types of Female Genital Mutilation. Type I refers to the partial or total removal of the clitoral hood. Type II is the partial or total removal of the outer labia with/without the removal of the inner labia. In Type III, the external genitalia are removed. In Type IV, the clitoris is nicked (a form of symbolic circumcision), the genitalia are burned or scarred, and chemicals are injected into the vagina to tighten it.

Type I

The clitoral glans, a sensitive area of the female genitals that is externally visible, and/or the prepuce/clitoral hood, the fold of skin that surrounds the clitoral glans, are removed partially or entirely in Type I. In Type I, only the clitoral hood is removed. Seldom is this done alone. The clitoral glans (the visible tip of the clitoris) and clitoral hood are completely or partially removed during Type I(b) (clitoridectomy), which is the more frequent treatment. The circumciser slices off the clitoral glans by pulling them with her thumb and index finger.

Type II

(Excision) is the entire or partial removal of the clitoral glans and outer labia, with or without removal of the inner labia. In Type II(a), the inner labia are removed; in Type II(b), the clitoral glans and inner labia are removed; and in Type II(c), the clitoral glans, inner, and outer labia are removed. Any type of FGM is referred to as excision in French.

Type III

In Type III (also known as infibulation or pharaonic circumcision), the external genitalia is removed, and the wound is fused. The clitoral glans may or may not be removed together with the excision of the inner and/or outer labia. The majority of Type III is found in northeast Africa, especially in Djibouti, Eritrea, Ethiopia, Somalia, and Sudan (but not in South Africa). Around eight million women in Africa are believed to be living with Type III FGM, according to a 2008 estimate. In 2010, 20% of women who had FGM had been infibulated, according to

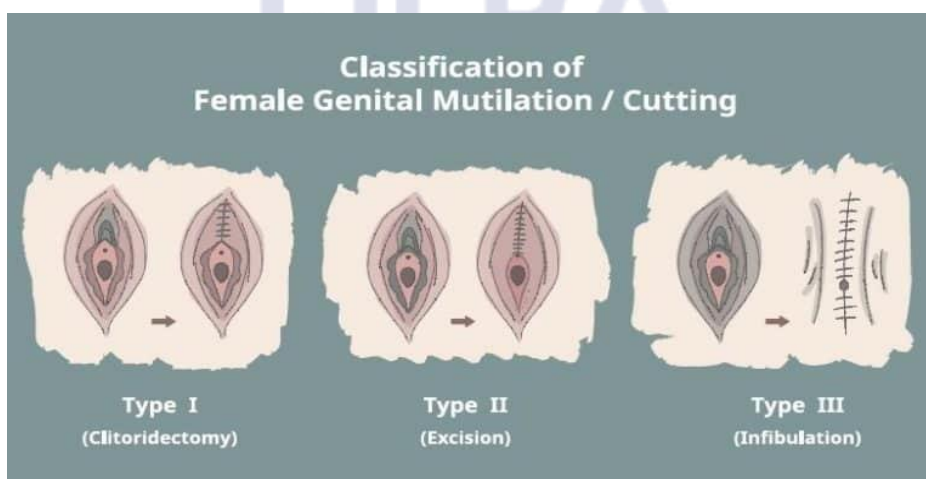
UNFPA. According to Edna Adan Ismail, in Somalia, the young patient is pulled open while squatting on a stool or mat and, if available, a topical anesthetic is used. The circumciser quickly grabs the clitoris by pressing it between her nails, hoping to amputate it with a slash. Speed and surprise are essential. The child's senior female relatives are then shown the organ and asked to judge if the amount that has been taken is sufficient or whether more needs to be removed.

Type IV

Other damaging practices to the female genitalia performed for non-medical reasons are classified as Category IV and include pricking, piercing, incising, scraping, and cauterization. The clitoris is nicked (a form of symbolic circumcision), the genitalia are burned or scarred, and chemicals are injected into the vagina to tighten it. Stretching of the labia is classified as Type IV as well. The custom, which is widespread in southern and eastern Africa, is intended to increase male sexual pleasure and strengthen the idea of a woman as a closed-off space. Girls are taught to use sticks and massages to extend their inner labia starting at the age of eight. In Uganda, girls are warned that if their labia are not expanded, they can have trouble giving birth.

PHYSICAL AREAS AFFECTED

The clitoral hood (type 1-a) and clitoral glans (type 1-b) are removed, as well as the inner labia (2-a), the outer and inner labia, and the vulva is closed (type 3).



Source: <https://www.all4maternity.com/wp-content/uploads/2020/09/tsm-pg13-img2-768x436.jpg>

RISKS

Short Term Risks

FGM has a long-term negative impact on the physical and mental health of women. There are no documented health advantages. The type of FGM, the practitioner's level of medical training, the use of antibiotics, and whether sterilized or single-use surgical equipment was used all affect both the immediate and long-term consequences.

Swelling, profuse bleeding, discomfort, urinary incontinence, and wound infection are examples of typical short-term consequences. Almost one in ten girls and women who have FGM, including symbolic clitoris nicking (Type IV), experience immediate difficulties, according to a 2014 systematic review of 56 research. Nevertheless, the risks rose with Type III.

Additional short-term consequences include endometritis, necrotizing fasciitis (a flesh-eating disease), gangrene, deadly bleeding, anemia, urinary infection, septicemia, and tetanus. The number of women and girls is unknown.

Long Term Risks

The late effects of FGM differ depending on the type. Infection-prone epidermoid cysts, the development of scars and keloids that cause strictures and blockage, and neuroma (growth of nerve tissue) involving the nerves that supplied the clitoris are a few of the conditions they entail. A female with infibulation may have an opening as small as 2-3 mm, which can result in protracted, drop-by-drop urination, pain during urination, and the sensation that one must urinate constantly. It is possible for urine to build up beneath the scar, keeping the skin perpetually moist, which can cause an infection and the development of tiny stones. Women who are sexually active or who gave birth vaginally have wider openings, although the urethra entrance can still be blocked by scar tissue. There might be rectovaginal or vesicovaginal fistulae (holes that allow urine or faeces to seep into the vagina). Infertility, infections, and incontinence, as well as other damage to the urethra and bladder, can result from this and other types of urethral and bladder injury.

Due to the restriction of the menstrual flow, painful periods are frequently experienced, and

blood stagnation in the uterus and vagina can also occur. Hematocolpos and hematometra can occur from a total occlusion of the vagina (where the vagina and uterus fill with menstrual blood). The lack of menstruation and abdominal enlargement can simulate pregnancy. A girl in Sudan with this illness was reportedly slain by her family in 1979, according to a report by Sudanese doctor Asma El Dareer.

Psychological Effects

A 2015 systematic review found that there is little reliable data on the psychological impacts of FGM. Women who undergo FGM are more likely to have anxiety, sadness, and post-traumatic stress disorder, according to a number of tiny studies. When women leave the culture where FGM is practiced and discover that their condition is not the norm, they may feel ashamed and betrayed, but within the culture where FGM is practiced, they may view their FGM with pride because for them it signifies beauty, respect for tradition, chastity, and hygiene. Some studies have also been done on sexual function. Women undergoing FGM were twice as likely to report having no sexual desire and 52% more likely to suffer dyspareunia (difficult sexual experience), according to a 2013 meta-analysis of 15 studies including 12,671 women from seven countries.

REASONS FOR FGM

According to a survey conducted, Test subjects gave three main justifications for FGM: to lessen sexual desire, to have halal hands, and out of religious necessity.

REDUCE FEMALE SEXUAL DESIRES - The participants brought up the misconception that FGM protects girls and women from premarital sex or sexual promiscuity by lowering sexual desire in them. The less intelligent mutilated and non-mutilated individuals from outside the city underlined this point of view the most. The females are trained to please their husbands. One of the participants said, “When I confronted my aunt about Khatna, she said it was done so that you do not scratch your clitoris. That part itches.” This clearly indicates the illiteracy about the Repercussions of this barbaric practice.

ACCEPTANCE IN THE SOCIETY - Participants acknowledged that some individuals

believe that because circumcised girls and women have haram hands, the food they make or serve is haram (forbidden by Allah). Many also believe that FGM-free women are unclean. Some individuals even believe that anything touched or performed by an uncircumcised girl or woman will become haram and therefore not be consumed. The uncircumcised girl and woman will consequently experience stigmatization and exclusion from the family and community. Such societal stigma will encourage the family to perform FGM on their daughters, and may even encourage adult females to have the procedure in the future. A test subject also said, “My grandmother told me that it is just a lump of flesh which is called ‘Haraam ki Boti’. You are not supposed to have that in you; it is sinful flesh.” The uneducated and physically damaged individuals from outside the city emphasized this viewpoint.

RELIGIOUS PERSPECTIVE

The participants, particularly the uneducated and mutilated, emphasized how many individuals hold FGM to be both a religious obligation and a Sunnah (the custom of the Prophet Muhammad) that all Muslims should follow. Bohra, a sect of Shia Muslims, is the only community known to practice FGM in India. Also, the participants stressed how important religious leaders are in preventing FGM. They believed that religious leaders should use the khutba (public preaching) and media to educate the public about FGM. They emphasized that religious leaders should not be embarrassed to bring up this subject during sermons. They suggested that because people were Kurds and lacked Arabic language proficiency, religious texts may have been misread or misinterpreted. Thus, educating the populace about these challenges should be a key responsibility of religious leaders.

VICTIMS’ ACCOUNTS

AFRICA - Confined in her tent; Confined behind her veil, there is only one way to limit the autonomy of the woman beyond this, namely by mutilating her own body. The mother has the clitoris of a daughter excised with razor blades. By this act of mutilation, they try to extinguish the sexuality of their daughters and impose their submission to the desire of the males.

The girls are now eligible for marriage. The young female children soon forget their pain by feeding on the breasts of their mothers. A few grains of sugar spread on the wound to accelerate the healing of the victim. This act against human rights is performed on 35 million women in

PUNE, INDIA - In March 2018 four survivors of female genital mutilation in India decided to end their silence against this practice. Four very powerful voices from India's film industry decided to help them end that silence. This is their story.

“I was 7 years old when they forced me to have a part of my femininity cut off. I don't remember much from my childhood my memories are very vague. Yet despite my poor memory, I clearly remember the day I was mutilated. That day is a vivid memory. That day we went to a place that was unfamiliar to me. The steps were covered with dust and were broken. We went inside somebody's house and were greeted by a middle-aged lady whom I failed to recognize. The aunty went inside another room and came back with a blade and some other items in her hand. My grandmother asked me to remove my pants. I innocently said I didn't want to use the washroom. They made me lie down and held my hands firmly to the ground. The next thing I remember is the sight of the silver Blade and sharp agonizing pain in my most intimate area. I screamed in terror. I yelled and tried to flee. It was all over. I cried all the way back home. I cried every time I urinated. The sight of the blood made me sick. I was hurt and angry and confronted my mother about it. She said she was under religious obligations and she did what she thought was the right thing to do. Fortunately, I didn't face any medical repercussions due to the unhygienic and brutal way I was mutilated. But it has left a psychological impact on me. I feel disgusted, ashamed, and angry at what has been done to me. There is no reason that justifies this barbaric practice. There is no reason that justifies taking away women's inherent physical rights and ability to experience a pleasure. Young girls are scarred for life and this needs to stop.”

BONDO INITIATION IN SIERRA LEONE

“The secret society, known as Bondo, carries out FGM. In this area, it is hard to find another mature girl who has not joined this society. Except for the very young girls. So, in this community in my own age group, I am the only one. I don't feel good. I feel lonely. I was 16 when my mother took me for Initiation. My name is Aminata and in working with young girls like Mariatu, educating them about the Bondo Society and helping them escape FGM. In the Bondo community, the cutting is done by a 'sowei', a woman of the highest rank in the all-female secret societies. I asked my mother when they go out to the Bondo bush, what happens?

She said, “When you go there you just eat chicken. Eat some big fish. It is really enjoyable.” My mother said they go there to teach girls how to look after a man. “When you are married, how to be with your man, how to manage your family, and how to do the domestic work.”

This is their tradition that when someone has matured, they must go through Bondo before they can be respected in society. Everyone will sing and dance throughout the night. Then in the morning, they take the female child to a stream in the forest to be washed. After the washing, they give them some clothes and then bring them to town. The parents will give some money when they hand the children back to them.

“I am not safe in this house. I am not safe in this community. I am afraid when I lie down to sleep that one day, they will grab me, tie me up, and take me to the place. So, in my heart, I feel at risk. One day this must be stopped. I will always stand up and speak out against this Bondo society.”

SOMALIA

“It was a very sunny morning. I remember waking up and the sun was beaming from the window in my bedroom. I am from Somalia. It's a very nice warm country. I woke up that morning and people were cooking my mother had the usual caterers. I come from a privileged Somali family. My grandparents were doctors, my mother was an accountant who worked for the Somali government and my dad was an Electrical engineer. But this day was really strange. What made it really strange was we had these AMAZING caterers in the house, and there were a lot of colors. I thought whose birthday are we celebrating today?

All of a sudden, my neighbor's daughter comes up to me and she says, “Oh Leyla you must really be looking forward to this day. You know it's a big day for you.” I remember saying, “well I don't know what you are talking about.” This girl was 8 years old. She continued to talk to me and she told me what was going to happen to me this day. At this point, I am having this out-of-body experience situation. Within seconds I hear my sister screaming on the other side of the house. When I say screaming it was like an animal who is being massacred. And within seconds I heard, “Get Leyla, it's her turn.” I literally ran. I didn't know what the hell I was running from at this point but I ran. But I am a little child. They grabbed me, got hold of me, and took me to this room. I was Pinned down and my clothes were taken off. My legs were

spread apart. I was Pinned down by women whom I trusted. Women I knew. They were aunties and family friends. I didn't know what was happening to me and why and my mother was not there so that was really strange. And before I knew it a sharp knife was taken to my body and this was done by a doctor. At the age of 7, I endured a practice called female genital mutilation. I felt all the pain. It's painful for someone to cut your flesh off and as a 7-year-old to undergo such practice by people you trusted and by a medical professional, you can imagine how devastating that was. I still fought back but again like I said I am a 7-year-old child. There is only so much I can fight.

After that happened, I was taken away to a room. It was literally a room full of gifts. I got a gold watch; I got sweets; I got chocolates. I grew up between Italy and Saudi Arabia as a child. And I remember thinking FGM was okay because I remember my first day in school, the girls came up to me in the playground and asked, "Oh Leyla, have you been through gudnin?" Gudnin means FGM in Somalia. I said, "yes" and the first thing they said was "Oh, we can play with her now." And I remember thinking, "Oh it's okay then," because imagine as a seven-year-old that really meant a lot to me. The idea of No one playing with me; no one would touch anything you touch. You are considered dirty; you would be stigmatized by the community."

INTERNATIONAL LEGAL PERSPECTIVE

Human rights are violated by practices harmful to women, such as FGM, according to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa.

Reports of prosecutions or detentions in FGM-related instances have come from a number of African nations, including Burkina Faso, Egypt, Ghana, Senegal, and Sierra Leone.

The Industrialized World Twelve industrialized nations—Australia, Belgium, Canada, Cyprus, Denmark, Italy, New Zealand, Norway, Spain, Sweden, the United Kingdom, and the United States—receive immigrants from nations where female genital mutilation (FGM) is practiced. Six out of the eight states in Australia have approved legislation against FGM. The federal government and 17 states have made the practice illegal in the United States.

One nation, France, has used its already-existing criminal laws to prosecute both FGM practitioners and parents who arrange the procedure for their daughters.

FGM/C¹ violates fundamental rights and rights protected by the Universal Declaration of Human Rights (UDHR²) and CEDAW, the International Covenant on Civil and Political Rights (IPCCR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), all of which India is a party. FGM/C also violates the right to life protected by Article 3 of the UDHR, Article 6(1) of the ICCPR, and Article 6 of the UNCRC.

FGM/C is only performed on women, so it violates the principles of gender equality outlined in Article 1 of the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), is classified as "violence against women" by The Declaration on the Elimination of Violence, and, if performed on girls between the ages of 1 and 15, is considered a violation of children's rights by the United Nations Convention on the Rights of the Child (OHCHR)

DOMESTIC PERSPECTIVE

FGM is performed in total secrecy. Thus, this technique is not prohibited by any laws or legislation. FGM prevents a woman from the Dawoodi Bohra community from enjoying the protections of Articles 14, 15, and 21 of the Indian Constitution. Additionally, it violates the letter and spirit of the 2013 National Policy for Children (NPC), which states that no custom, tradition, cultural practice, or religious belief shall violate, limit, or hinder children from exercising their rights. In addition to seriously endangering a woman's health, this practice also violates her fundamental right to equality. It infringes upon her right to a life of dignity and one free from prejudice. Lawyer Sunita Tiwari requested a total prohibition on this practice in a petition she brought before the Supreme Court of India in 2018. "According to Mr. AM Singhvi, who speaks for the Dawoodi Bohra community, female circumcision is carried out by Dawoodi Bohras in a way that is both safe and non-mutilating. In light of the fact that the WHO report focuses on FGM rather than circumcision, Mr. Singhvi questions its relevance ". The sect asserts that Articles 25 and 26 of the Indian Constitution give them the freedom to perform

¹ FGM/C – Cutting/Mutilation

² UDHR- Universal Declaration of Human Rights

FGM on girls. Women have several responsibilities outside of marriage, according to Mr. Dipak Misra, who was India's Chief Justice at the time. He also stated that "subjugation to a husband will not pass the test of constitutionality." Also, it is forbidden to touch a young girl's genitalia, according to the POCSO Act. On September 24, 2018, the division bench referred the case to a Constitution Bench. Thus, the Division Bench feels that a careful analysis is necessary to decide whether or not FGM is a fundamental religious practice.

CONCLUSION

FGM has social repercussions that impact many young girls and women socially, physically, and psychologically. Education and awareness initiatives are required in the communities where FGM is practiced in order to end the practice. Although the majority of African nations have made the practice illegal, since it is so ingrained in their cultural and traditional customs, it is insufficient. The campaigns must cover issues including FGM's negative impacts and abuses of human rights. Culture-related issues are delicate, so the first step is to eradicate these traditional and cultural views by educating people sufficiently about them. The research is crucial to make sure that readers who engage in this activity are capable of shielding kids from oppressive societies that put women's and children's lives in danger. The topic of FGM needed to be raised because it is becoming a global problem as a result of the increasing number of migrants. To be able to assist in the future, it is necessary to be aware of this activity and its effects. The initial investigation was successful in locating data on the internet and in books. Since several groups working to end FGM, they globally gave good information that was quite useful for the research.

The practice of FGM is alarming, and since most people in western nations are ignorant of it, it is crucial to bring up this subject. Human rights are intended to safeguard every person, regardless of color, ethnicity, nationality, or age. FGM has emerged as one of those cultural or traditional practices that have to be looked into in light of human rights standards. Investigations on a national and worldwide scale revealed that the practice in the cultures where it is practiced violates the rights of women and girl children. FGM is needless, painful, hurtful, and cruel since it has long-term effects on a person's health.

First, by empowering those who are already knowledgeable about the practice of FGM to spread that knowledge to others, the practice will eventually be abolished. In order for them to

assist others in their cultures who are still performing FGM, women, and girls should also be assisted by giving them access to the knowledge they need about the practice. A girl has been mutilated or is at risk of undergoing mutilation, and experts in the field of community development should be urged to report any incidents they may suspect in their community to the authorities and groups working to end the practice.

Fortunately, this practice hasn't taken off in India, but by learning about other people's cultures, community development professionals will be able to spot any potentially harmful cultural practices that exist among minority groups, saving individuals who are unwittingly subjected to them.

“Female sexuality does not need any moderation to be accepted.”

