

FEMALE GENITAL MUTILATION

Written by *Shanvi Aggarwal*

** 2nd Year BA LLB Student, Christ University, Bangalore*

“You or any of your family members may not have practiced female genital mutilation, but that is not enough reason to keep silent about it. You need to speak out against it to discourage others from the practice.”

- Joseph Osuigwe Chidiebere

ABSTRACT

In many parts of the world, women have made less progress toward gender equality. They face barriers to enter various arenas of growth and development. One of those barriers is Female Genital Mutilation (FGM), which refer to cutting the external female genitalia for any nonmedical reason. The practice is prevalent in some majority Muslim countries and has a tremendous cost: many girls bleed to death or die of infection, most are traumatized. Those who survive can suffer adverse health effects during marriage and pregnancy. According to the World Health Organization, FGM has been documented in 30 countries, mainly in Africa, Middle East and Asia. There is a stereotype that FGM happens just on the African continent, but it's actually part of the birthing procedure in regions all around the world. The study shows that FGM might be a phenomenon of epidemic proportions in the Arab Middle East and Arab governments refuse to address the problem. UNICEF reports that the practice also occurs to a limited degree in Jordan, Gaza, Oman, and Iraqi Kurdistan. This fall, a United States district judge heard a landmark case. For the first time, the federal government pursued a case of female genital mutilation on American soil. In India, for long, FGM or khatna as the Bohras call it remained a well-kept secret, a subject never to be discussed. But now a few women, victims at the hands of the Bohra tradition, are choosing to speak out and create awareness. FGM violates

human rights conventions that protect women and children from cruelty and violence and ensure them "bodily integrity" and access to health care, education, and self-realization.¹

INTRODUCTION

Women have made less progress toward gender equality in the Middle East, Africa and Asia, than in any other region. The unusually low status of women in the regions is quite alarming. Many observers of the practice of Khatna or FGM claim that it is due to the regions' Islamic traditions.² I suggest that laws, not Islam, are at fault. These regions require strict laws for women participation in all the arenas, rather than diminishing their role in the work force and the political sphere. Without large numbers of women participating in the economic and political life of a country, traditional patriarchal norms, laws and institutions will go unchallenged. Thus, women are exposed to such inhumane practices that infringe their basic human rights. The main concerns of the regions are gender equality and sexual liberalization. It can be clearly observed that in countries where the younger generations are educated have gradually become more liberal and are breaking the stereotypes against women welfare.

The term "female genital mutilation", frequently abbreviated as FGM, refers to cutting the external female genitalia for any nonmedical reason.³ Depending on local or cultural customs, might mean a small nick on the clitoris or rubbing a razor against the clitoris or labia minora.⁴ The procedures are usually conducted by a physician, midwife or traditional practitioner with little or no medical knowledge. The reasons people cite are varied, but it is generally related to controlling female sexuality; if it hurts or she can't feel pleasure, she won't seek out extramarital sex leading to maintenance of purity for marriage.⁵ To be clear, it is observed that

¹ Toubia, N. (1993). *Female Genital Mutilation: A Call for Global Action*. New York: Women, Ink; pp.44

² Von der Osten-Sacken, T. and Uwer, T., 2007. Is female genital mutilation an Islamic problem?. *Middle East Quarterly*.

³ *Female Genital Mutilation: The Facts, Compiled by Laura Reymond, Asha Mohamud, and Nancy Ali. Funding was provided by the Wallace Global Fund.*

⁴ Available at <https://www.scribd.com/document/363262818/Female-Genital-Mutilatio1>. Last Accessed on April 3, 2018, 10:30 pm.

⁵ Available at <https://religionnews.com/2017/04/27/the-splainer-what-is-female-genital-mutilation-and-what-does-it-have-to-do-with-islam/> Last accessed on April 4, 2018, 2:45 pm.

women voluntarily participate, thinking it, to be a custom that has been followed by women in their families for generations. In such a society, girl's future marriage ability depends on her being cut or gone through FGM.

Some refer it as "female genital cutting" and not "female genital mutilation". Female genital mutilation is the accepted term, and it is the term WHO uses. In the context of the communities, they prefer "cutting" instead of "mutilation". It is believed that the word "mutilation" comes across as the women who have had the procedure are damaged. Questioning upon why a culture would want to deny women the pleasure of sex, as the clitoris is seen as the center of sexual pleasure for women. Study says that practice like FGM keeps women faithful to men. Thus, leads to reinforcement of gender norms about a proper woman and clean woman that a society wants to accept. In terms of their sexual function, some women say with the right partner they can still have a full sexual life and thus the practice of FGM is no harm to them. But a majority of women testified that they've really suffered, and they're having a lot of sexual health issues. The United Nations has declared FGM as a human rights violation and provides support to anti-FGM campaigners around the world. It has been a top priority for UN agencies and NGOs for decades. As early as 1952, the U.N. Commission on Human Rights adopted a resolution⁶, in 1958, the Economic and Social Council invited the World Health Organization to study the customs subjecting girls to ritual oppressions⁷, the 1979 Convention on the Elimination of All Forms of Discrimination against Women denounced the practice⁸ and later in 1989 Convention on the Rights of the Child identified female genital mutilation as a harmful traditional practice⁹. The three main types of it that have been identified are: the Pharaonic Circumcision, the "sewn closed" category, involves the removal of the external genitalia and fusion of the wound. The inner and/or outer labia are cut away, with or without removal of the clitoral glands. According to an estimate in 2008, over eight million women have gone through this practice in Africa¹⁰. Clitoridectomy is the complete or partial removal of the clitoral glands (the visible tip of the

⁶ Changing a Harmful Convention

⁷ "Fact Sheet no. 23, Harmful Traditional Practices Affecting the Health of Women and Children," U.N. Office of the High Commissioner for Human Rights, Geneva, accessed Aug. 11, 2006.

⁸ "Convention on the Elimination of All Forms of Discrimination against Women," U.N. General Assembly resolution 34/180, Dec. 18, 1979.

⁹ "Convention on the Elimination of All Forms of Discrimination against Women," U.N. General Assembly resolution 34/180, Dec. 18, 1979.

¹⁰ Female Genital Mutilation/Cutting. A Statistical Exploration (New York: UNICEF, 2005), p. 10.

clitoris) and clitoral hood. The circumciser pulls the clitoral glands with her thumb and index finger and cuts it off. Excision is the complete or partial removal of the inner labia, with or without removal of the clitoral glands and outer labia. Excision in French can refer to any form of FGM.

Whether the harm done by the practice can be medically undone is one of the important questions that needs to be answered. According to the study, it depends on the type of mutilation: women have partial or total removal of the clitoris; the folds of flesh around the vagina removed; the vaginal opening narrowed and women have some form of piercing, scraping, and cauterizing to genitalia. For women who have undergone “narrowing” of the vaginal opening, WHO recommends reopening of the vaginal orifice. One of the procedures is called clitoral reconstruction. Study says that the procedure that has some potential, and some women have experienced good outcomes and better sexual function. It is also important to lay an emphasis on the treatment for the mental health issues that can result, like depression, anxiety and post-traumatic stress¹¹, due to FGM.

Middle Eastern societies have a culture of secrecy over sexual and personal relations. Such issues have been consistently hidden in a private sphere. Advisory books on sexual habits are almost nonexistent outlined by Islamic law.¹² Sex education is not considered as a subject of relevance. According to study, it has been observed that in the Arab society, speaking about sexuality is almost unthinkable¹³. The lack of public discussion of such issues in the Middle East is indicative of the strength of these sexual taboos. The discovery of widespread FGM in several parts of the world suggests that it is primarily not an African phenomenon with only marginal occurrence in the eastern Islamic world. It is practiced at a rate of nearly sixty percent by Iraqi Kurds. It has come under the light that the practice was prevalent in Iraqi Kurdistan⁸ for years but went undetected by the World Health Organization, UNICEF, and many other international NGOs in the region due to the existence of civil society structures and popular

¹¹ Janet Menage, "Post-Traumatic Stress Disorder in Women Who Have Undergone Obstetric and/or Gynecological Procedures. A Consecutive Series of 30 Cases of PTSD," *Journal of Reproductive and Infant Psychology*, 11(1993): 221-8.

¹² Available at <https://www.meforum.org/articles/2007/is-female-genital-mutilation-an-islamic-problem>. Last accessed on April 1, 2018, 10:10 pm.

¹³ *Die Zeit* (Hamburg), May 11, 2006

demand for individual rights. Syrian, Saudi, and Iranian authorities simply do not let NGOs operate without restriction, especially when they deal with sensitive social issues. Taboo, specifically political, is the most important factor undercutting research on FGM in Arab countries. It is objectionable to criticize the predominant Muslim or Arab cultures. Statistical data¹⁴ such as from countries like in African show no clear relationship between FGM and a specific religion¹⁵. A talk about the causes of FGM takes us deep down to the Islamic rules relating to women and sexual morality¹⁶. A point to note is that the Qur'an does not require FGM. To curb FGM as a practice, it is necessary to accept that Islam is more than just a written text. It is not the book that cuts the clitoris, but its interpretations aid and abet the mutilation.

For the first time, in the fall, the United States pursued a case of female genital mutilation. In the case, the courts weighed a religious minority's rights against the federal government's interest in protecting children. For the first time, the federal government pursued a case of female genital mutilation on American soil. The defense lawyers argued upon the freedom of any religion and any religious practices.¹⁷ In 2015, an Australian court found three Bohras, including one religious leader, guilty of cutting two girls; the same year, several Indian Bohra women started a campaign to end the practice. The campaign helped push the matter in the Indian legal system, where the Supreme Court is expected to take it up later this year. Terming it an 'extremely important and sensitive issue', the Supreme Court in May, 2017 issued a notice to Centre and several states on a petition filed by Delhi-based lawyer Sunita Tiwari challenging ban on inhuman practice of Female Genital Mutilation (FGM) practiced among Muslims of the Dawoodi Bohra Community. The petition contends that the practice does not have any reference in the Quran and is carried out without any medical reason.¹⁸ Ministries of Law and Justice, Social Justice and Empowerment have also been made parties in the plea which referred to various conventions of the United Nations, to which India is a signatory. These petitions follow campaign - #EndFGM started by a survivor group 'Speak Out on FGM' on Change.org in 2015 urging the government to frame a law to ban this practice. The cause has

¹⁴ Female Genital Mutilation/Cutting. A Statistical Exploration (New York: UNICEF, 2005), p. 10.

¹⁵ Marie José Simonet, "FMG: Sunna oder Verbrechen aus Tradition," stopFMG.net, Vienna, June 24, 2005.

¹⁶ Ellen Gruenbaum, *The Female Circumcision Controversy: An Anthropological Perspective*. (Philadelphia: University of Pennsylvania Press, 2000), p. 33.

¹⁷ Available at <https://www.csmonitor.com/USA/Justice/2017/0727/Michigan-FGM-case-could-test-bounds-of-religious-liberty>. Last accessed on March 1, 2018, 11:10 pm.

¹⁸ NCW for law to ban female genital mutilation, By: PTI, New Delhi, Published: February 6, 2017 10:47 pm.

garnered 85,000 signatures. Masooma Ranalvi, a Delhi-based publisher who has put her name to an online petition against the practice along with 17 other women decided to come out in the open. The pain has become a trigger and the passion to save other girls from being cut have made her and the others fearless.¹⁹ Family and child protection lawyer Tavawalla stated, “Khatna as a gross violation because children are not able to protect themselves. Laws play a very essential role in bringing about social change. Gender reforms are slow and hard-fought, even more so when they involve ancient, archaic and cultural practices of a secretive and closed community like the Dawoodi Bohras’”.

CONCLUSION

To cut off the sensitive sexual organ of a girl is directly against the honesty of nature, a distortion to her womanhood, and an abuse of her fundamental human right.²⁰ To tackle the problem, several human rights organizations need to continue to break down the wall of silence and autocracy in the regions where FGM is practiced and promote the individual rights of women to help them live with dignity.²¹ The need of the hour is to seek a direction to make FGM an offence on which the law enforcement agencies can take cognizance on their own. The offence should be made non-compoundable and non-bailable with provision for harsh punishment, to act as a deterrent for such practice. Since it is carried out on minors, it amounts to serious violation of the rights of children as even minors have a right of security of person, right to privacy, bodily integrity and the freedom from cruel, inhumane or degrading treatment. Many countries have banned the practice and they include Australia, USA and the United Kingdom. Importantly, there is no law in India to declare the practice illegal. This bewildering practice is nearly universal within the groups where it is found and in some areas is becoming more widespread and extreme. A peculiar characteristic is that even if each individual in the practicing group comes to think that it would be better to abandon the practice, no one

¹⁹ Available at https://www.hindustantimes.com/static/fgm-indias-dark-secret/index.html?utm_source=read. Last accessed on April 1, 2018, 9:00 pm.

²⁰ Available at <http://devatop.org/7-quotes-about-female-genital-mutilation-by-joseph-osuigwe-chidiebere/>. Last accessed on April 2, 2018 5:35 pm.

²¹ Ross, M.L., 2008. Oil, Islam, and women. *American political science review*, 102(1), pp.107-123.

individual acting on her own can succeed.²² Familial ideals include privacy and sanctity, real and metaphoric, inhibiting efforts, real or represented, to access and change family. This is the reason why the promotion of family ideals has served and reproduced patriarchal power. Thus, leading to damage and denigrate women to construct a false premise of the superiority of men. Such inhumane practices against women promote male heterosexism and legitimate traditional, marital, patriarchal norms to take over the society, rather than rationality guiding the society. Women and girls are not valued equally as human beings, the practice of FGM is one such example this, that has to be stopped.

²² Mackie, G. (1998). A way to end female genital cutting.