



# FEMALE GENITAL MUTILATION: A VIOLATION OF HUMAN RIGHTS

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## ABSTRACT

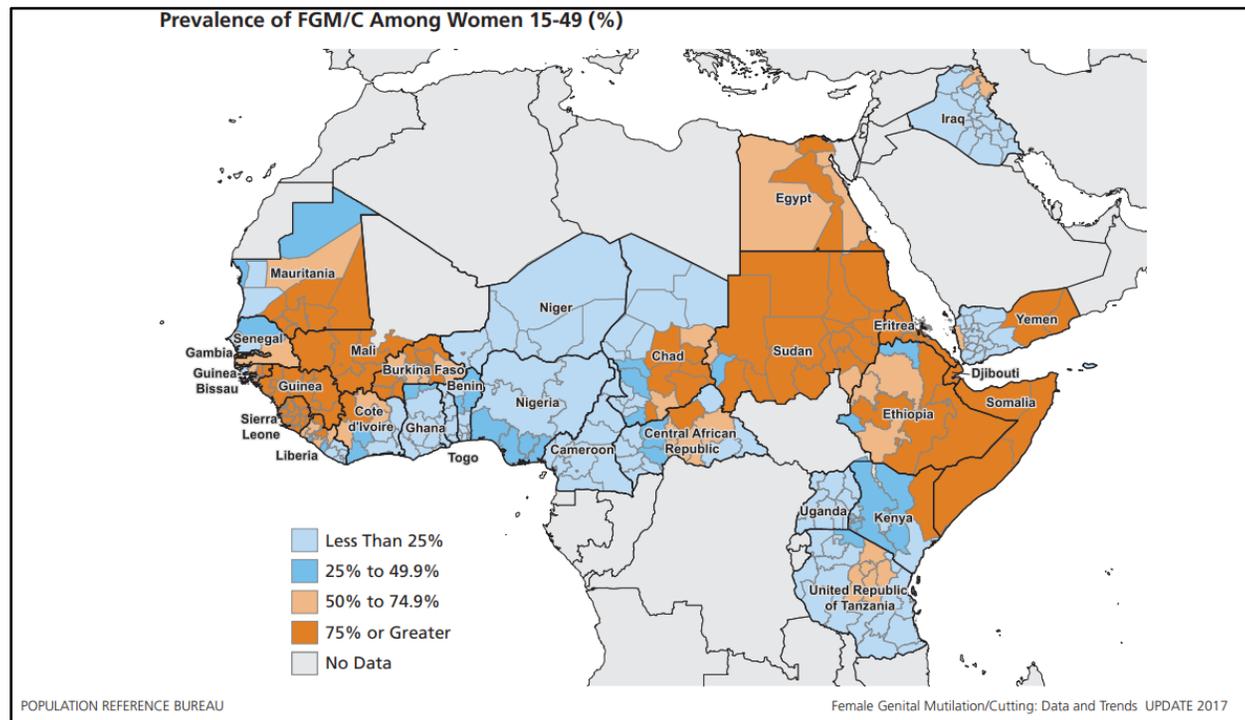
The protection of human rights is a serious concern at both national and international level. The concept of human rights includes the right to equality, right to health, right to safe environment, right to life which is free from torture and discrimination on the basis of sex. But the practice of female genital mutilation not only harm the physical and mental health of women but also violates their basic rights. The practice of female genital mutilation is not a religious practice but a traditional practice and practiced in around 29 countries including India. Female Genital Mutilation is practiced through different methods (such as total or partial removal of the clitoris and narrowing the vaginal area through sewing) in different regions but the basic object behind its practice is to control the sexual activities of women and to ensure the female's virginity. There are number of international conventions and declarations that recognize it as a gender based discrimination and gave recommendations to eliminate such practices.

**Key Words:** female genital mutilation, human rights, discrimination.

## 1. INTRODUCTION

The practice of female genital mutilation (FGM) has received a great deal of attention in recent years at national and international level (Centre for Reproductive Rights, 2006). FGM is an extremely harmful traditional practice, which can't be decided by personal preference. The term 'female genital mutilation' is also known as 'female genital cutting' and 'female genital mutilation/cutting'. Around 200 million girls and women in the world are estimated to have undergone such procedures, and 3 million girls are still estimated to be at risk of undergoing the procedures every year. Female genital mutilation (FGM) has been reported to occur in all parts of the world (WHO, 2008). But it is the most common practice in around 29 countries of Africa, Asia, Middle East and Latin America and among migrants from these areas settling in Western countries. The prevalence of FGM varies across countries, from 96.7 per cent among girls aged 15 to 19 in Somalia to 0.4 per cent in Cameroon. Although, FGM prevalence has dropped in many countries, the rate of decline is far below what is needed. If the current trend continues, the United Nations Population Fund (UNFPA), estimates that 86 million girls born from 2010-2015 will be at risk of being cut by 2030. The data regarding the cases of FGM is mentioned in the below pictures:

Picture 1: Prevalence of FGM among women 15-49 (%)



Source: Population Reference Bureau

This practice is mostly carried out by traditional circumcisers, who often play other roles in communities such as attending childbirths. In many communities, health care providers perform FGM due to the erroneous belief that this procedure is safer when medicalized. WHO strongly prohibits such kind of procedures. And FGM is recognized internationally as a violation of the human rights of girls and women. This practice constitutes discrimination against women and deep-rooted inequality between the sexes. It is carried out on minors and is also a violation of the rights of children. The practice violates the right to health, security and physical integrity, right to be free from cruel, torture and inhuman or degrading treatment and also right to life when the procedure results in death.

FGM is discussed in this research paper in the context of women's right and child rights rather than as a strictly medical issue because protection of human rights is a serious concern at international level.

## 2. FEMALE GENITAL MUTILATION: MEANING AND HISTORICAL BACKGROUND

Female Genital Mutilation (FGM) comprises all form of procedures that involve partial or total removal of the external female genitalia, or any other injury to the female genital organs for non-medical reasons. WHO has given this definition to a widespread practice, which is known to many but discussed by few. It is also sometimes referred to as female genital cutting or female circumcision. (Forward, 2022) The terminology of this practice has been developed from 'female circumcision' and 'female genital cutting' to 'female genital mutilation'. Female Genital Mutilation (FGM) is the current terminology used by the World Health Organization (WHO) and is familiar to most Health Care Professionals. The term "female circumcision" is inappropriate with respect to women as it implies that the procedure of cutting is analogous to male circumcision, but in fact a much more extensive amount of tissue is removed in cases of Female Genital Mutilation. The word "mutilation" although is accurate but it can be seen as judgmental and can be offensive. And in some situations, the term Female Genital Cutting is a more sensitive term to use for such practices.

This procedure is commonly performed upon girls who are between the ages of four and twelve as a rite of passage. In some cultures, it is practiced as early as a few days after birth and as late as just prior to marriage or after the first pregnancy.

Female Genital Mutilation is a customary practice. Communities practices FGM just to maintain their customs and preserve their cultural identity by continuing this tradition. They attempt to control women's sexuality by reducing their sexual fulfillment. It is important to note that FGM is a cultural, not a religious practice. In fact, FGM is practiced by Jews, Christians, Muslims, and members of other indigenous religions in Africa. And none of these religions requires this practice as a part of their religion. The practice of FGM becomes a requirement for social acceptance in those communities where most of women are circumcised and their family and friends create such an environment to force them.

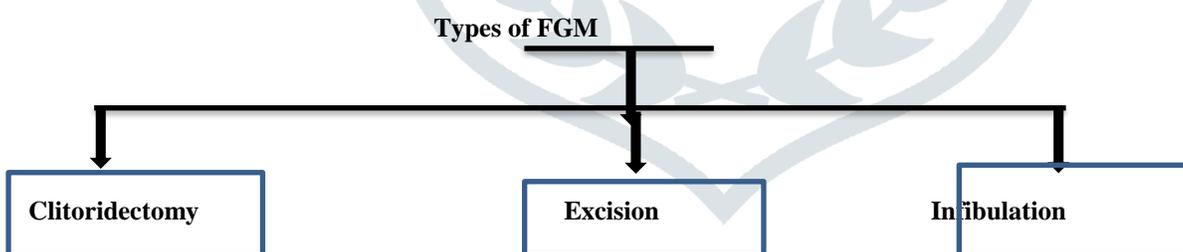
The history of FGM is not well known but the practice dated back at least 2000 years. It is not known when or where the tradition of Female Genital Mutilation was originated but there is a believe that it was practiced in ancient Egypt as a sign of distinction amongst the aristocracy. Some believe that it was started during the slave trade when black slave women entered ancient Arab societies. Some believe that FGM began with the arrival of Islam in some parts of sub-Saharan Africa. And some other believe that the practice was developed independently among certain ethnic groups in sub-Saharan Africa as a part of puberty rites.

Many commentators believed that this practice evolved from earliest times in primitive communities that wished to establish control over the sexual behavior of women. The Romans performed a technique involving slipping of rings through the labia majora of female slaves to prevent them from becoming pregnant and the Scoptsi sect in Russia performed FGM to ensure virginity. Overall, in the history, it was believed that FGM would ensure women's virginity and reduction in the female desire.

### 3. TYPES OF FEMALE GENITAL MUTILATION

FGM is practiced on women through various procedures and all procedures are affecting the health of women. The procedure of cutting is divided into three types, which are depicted in the following figure.

Figure 1: Types of FGN



1. Clitoridectomy: partial or total removal of the clitoris (a small, sensitive and erectile part of the female genitals) and, in very rare cases, only the prepuce (the fold of skin surrounding the clitoris).
2. Excision: partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora (the labia are the 'lips' that surround the vagina).
3. Infibulation: narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and sewing over the outer, labia, with or without removal of the clitoris or inner labia.
4. Other: all other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incising, scraping and cauterizing the genital area.

#### 4. CONSEQUENCES OF FEMALE GENITAL MUTILATION

FGM has no health benefits but it has many harmful effects on girls and women. Apart from violation of human rights of girls and women, it has number of short term and long term consequences. The short term and long term consequences of FGM are mentioned in the following table no. 1.

**Table No. 1: Consequences of Female Genital Mutilation**

Sr. No.	Short Term consequences	Long Term consequences
1.	Severe Pain	Chronic pain and Pelvic infection
2.	Difficulty in passing urine	psychological problems like depression, anxiety and low self-esteem
3.	Genital tissue swelling	Development of cysts
4.	Excessive Bleeding	Abscesses and genital ulcers
5.	Fever	Excessive scar tissue infection
6.	Injury to nearby genital tissue	Infection of the reproductive system
7.	Neurogenic shock	Decrease sexual enjoyment
8.	Infection and septicemia	Long term urinary, vaginal and menstrual problems
9.	Death through sever bleeding to hemorrhagic shock	Infertility and problem in child birth

Table No. 1.

#### 5. FEMALE GENITAL MUTILATION AND HUMAN RIGHTS

FGM is an internationally recognized violation of human rights and constitutes an extreme form of offence against women. There is a worldwide effort to eliminate the practice which is supported by many international and regional treaties as well as consensus documents. In June 1993, the Vienna World Conference on Human Rights agreed that FGM is a violation of human rights. FGM is a gender based practice and create the discrimination against women and girls. In 2012, the UN General Assembly designated 6 February as the International Day of Zero Tolerance against Female Genital Mutilation. This day is designated to enhance the awareness among society on this issue and to encourage concrete actions against such practices.

The practice of FGM violates human rights of girls and women, which are provided by international and regional instruments. These rights include right to be free from all forms of gender discrimination, the rights to life and to physical integrity, the right to health, and children's right to special protections.

##### 5.1. The Right to be Free from Gender Discrimination

The right to be free from gender discrimination is guaranteed in various international human rights instruments. Article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) provides a broad view of discrimination against women and defined that any restriction, exclusion or distinction on the basis of sex upon any woman which nullifying the enjoyment. FGM is a practice that aimed to control women's sexuality and subordinating their role in society. When any woman undergoes FGM, she is a victim of sex based discrimination and compromises the enjoyment of her fundamental rights and liberties.

The impact of FGM on women's human rights is recognized explicitly in the African Protocol on Women's Rights, which requires all states parties to prohibit and condemn harmful practices which negatively affect the human rights of women.

Article 2 of the Universal Declaration of Human Rights states that everyone is entitled to all the freedom and rights as prescribed under this declaration without any distinction of race sex and colours.

In July 2020, the Human Rights Council adopted resolution 44/16 on the elimination of FGM to reach zero tolerance for FGM by 2030.

## **5.2. The Right to Life and Physical Integrity including freedom from violence**

The right to physical integrity includes the right to freedom from torture, inherent dignity of the person, the right to liberty and security of the person, and the right to privacy. This category of rights is protected by various human rights instruments including Article 1 and 3 of The Universal Declaration of Human Rights; Preamble of The International Covenant on Economic, Social and Cultural Rights; Preamble and Article 9 (1) of The International Covenant on Civil and Political Rights (ICCPR); and Article 19 of The Convention on the Rights of the Child (CRC). FGM causes severe physical and mental damage, sometimes it causes to death. As such, FGM interferes with a woman's right to Privacy, physical integrity, and freedom from violence.

## **5.3. The Right to Health**

FGM affect the health of a girl/woman. It causes severe physical and mental harm because of its invasive procedure without any medical necessity. It is a violation of right to health of woman/girl. The International Covenant on Economic, Social and Cultural Rights recognizes the rights of all human beings of highest standard of physical and mental health. The World Health Organization includes physical, mental and social well-being in its definition of health and recognizes that health is not merely the absence of disease or infirmity. The 1994 Programme of Action of the International Conference on Population and Development in Cairo, Egypt, also includes sexual health in right to health. The purpose of this recognition is to enhance the life and personal relations of women. Furthermore, the Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 24 (20<sup>th</sup> Session, 1999) has also specifically recommended the state government to take actions relating to FGM so that they can make health policies and consider the needs of girls and adolescents who may be vulnerable to traditional practices such as FGM.

## **5.4. The Rights of the Child**

The UN Convention on the Rights of the Child laid down international standards for the rights and needs of children under the age of 18. It is a one of the human rights international treaties that ratified by the majority of states. The Convention specifically calls on states to provide legal, health, educational and institutional measures to safe guard children mentally and physically. Article 19 spells out the above mentioned obligations and is relevant to the protection of children against FGM. FGM is practiced mostly during the age of 0-15 of girls and it violated the rights of children, which are provided under the Convention on the Rights of the Child.

## **6. INTERNATIONAL AND REGIONAL SOURCES OF HUMAN RIGHTS WITH RESPECT TO FGM**

There are various National and International instruments that provides protection of human rights of girls and women from FGM. These are as follow:

### **6.1 International treaties**

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Covenant on Civil and Political Rights
- Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)
- Convention on the Rights of the Child

- Convention relating to the Status of Refugees and its Protocol relating to the Status of Refugees

### 6.2 Regional treaties

- African Charter on Human and Peoples' Rights (the Banjul Charter) and its Protocol on the Rights of Women in Africa
- African Charter on the Rights and Welfare of the Child
- European Convention for the Protection of Human Rights and Fundamental Freedoms

### 6.3 Consensus documents

- Beijing Declaration and Platform for Action of the Fourth World Conference on Women
- General Assembly Declaration on the Elimination of Violence against Women
- Programme of Action of the International

### 6.4 Other International response

1. In 1997, WHO issued a joint statement against the practice of FGM together with the United Nations Children's Fund (UNICEF) and the United Nations Population Fund (UNFPA).
2. In 2007, UNFPA and UNICEF initiated the Joint Programme on Female Genital Mutilation to accelerate the abandonment of the practice.
3. In 2008, WHO together with 9 other United Nations partners, issued a statement on the elimination of FGM to support increased advocacy for its abandonment. (WHO, 2008) This statement provided evidence which was collected from the previous decade about the practice of FGM.
4. In 2010, WHO published a "Global strategy to stop health care providers from performing female genital mutilation" in collaboration with other key UN agencies and international organizations.
5. In December 2012, the UN General Assembly adopted a resolution on the elimination of FGM.
6. In 2016, UNICEF launched an updated report documenting the prevalence of FGM in 30 countries, as well as beliefs, attitudes, trends, and programmatic and policy responses to the practice globally.
7. In May 2016, WHO in collaboration with the UNFPA-UNICEF joint programme on FGM launched the first evidence-based guidelines on the management of health complications from FGM. The guidelines were developed based on a systematic review of the best available evidence on health interventions for women living with FGM. To ensure the effective implementation of the guidelines, WHO is developing tools for front-line health-care workers to improve knowledge, attitudes, and skills of health care providers in preventing and managing the complications of FGM. (UNICEF, 2016)
8. In July 2020, the Human Rights Council has adopted resolution 44/16 on the elimination of FGM to speed up efforts to reach zero tolerance for FGM by 2030.

## 7. RECOMMENDATIONS

FGM is a serious concern at international level because it affects health and violates the human rights of girls and women. There are certain recommendations that need to be implemented to abolish FGM and to rehabilitate the victims of it.

1. There is a need to reach out to the girls and women whose rights are violated by FGM and to provide them proper rehabilitation through counselling and medical checkups.
2. It is important, in particular, to sensitize political leaders, communities on FGM, to cultivate networks of supporters and activists to disseminate information about local, regional and global developments.
3. States must also ensure adequate national provisions to stop FGM, including through criminalization, appropriate enforcement and prosecution.

4. Health workers should be fully aware of the considerable consequences of FGM on sexual and reproductive health.
5. There is also need to reframe the concepts and traditions related to FGM, rather than seeking to discredit long-held traditions.
6. Public declarations of FGM abandonment are an effective measure to make the change in a community's attitudes and will also help in formation of new social norms and traditions.
7. Government should also take action through legal, regulatory and policy measures to abolish Female Genital Mutilation. Because, International Conventions recommended the states to do that. Apart from government, NGOs should also spread the awareness regarding side effects of FGM and help in implementation of government policies.

## 8. CONCLUSION

FGM is a traditional practice and people of specific communities just follow to dominate and exploit the women and girls. There is no evidence of any reference from religious prospective. Human rights authorities at international and national level take steps to abolish it but no desirable results come. The experience of the various nations reveal that no single action can eliminate FGM. Criminal laws and education system, while often effective, alone cannot entirely change the mentality of the people. There is need of the time that state, international organizations and NGOs work together to abolish FGM and to rehabilitate the victims.

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