



A study on female genital mutilation from the perspective of protection of rights of young girls

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Abstract

Female Genital Mutilation is a widespread practice in Asian, African as well as Middle East countries. The practice involves altering or cutting sensitive female genitals by using unsterilized sharp instruments, many times with a medical assistance. The purpose of such practice lies in certain customary beliefs among people which include maintaining virginity and chastity of females. However, FGM is a grave violation of human rights. It is highly discouraged and even prohibited by many nations along with global restraints created by international laws.

This research paper endeavors to study FGM along with its impact on health of young girls who are made to undergo the same. This paper also addresses the point that FGM is not only a violation of fundamental human entitlements but also a form of child abuse.

Keywords: Female, child abuse, human rights, international laws

Introduction

All human beings are equally entitled to enjoy rights and freedoms. Irrespective of their background, nationality, caste, religion, gender, color etc. each person possess an inherent right to exercise fundamental human entitlements. It enables them to lead their lives with dignity, respect and self-fulfillment. The same is in consonance with and in abidance to the golden principles of the Universal Declaration of Human Rights, a paramount internationally recognized human rights instrument.

Human entitlements and freedoms are several and they seek to ensure protection from the perspective of various aspects of life of an individual, for instance, social; economic; cultural; civil and political. In addition to these areas, another field where the subject of protection of human rights is equally applicable relates to preservation of dignity of young girls. The same is in the context of the wide practice of Female Genital Mutilation (FGM) in various countries of the world, substantially in Asia, Africa as well as in the Middle East.^[1] Particularly, in countries such as Kenya; Somalia; Ghana; Egypt; Australia; Gambia; Indonesia; Mauritania; Guinea; Sudan; Mali; Burkina Faso; Centra African Republic; Djibouti etc. the practice of FGM is prevalent.

In these regions, FGM is practiced to a great extent. In majority of the cases, in these parts of the world the practice is performed owing to ubiquitousness of established cultural customs which have been claimed to be difficult to unfollow.

What is FGM?

FGM is a procedure where specific areas of female genitals, such as clitoris and clitoral hood among other parts, are removed; and many times supported through medical assistance. In serious cases, even the entire external genitalia is cut and separated from the female's body. Apart from this practice there are even cases where through adoption of certain methods deliberate specific injuries are made to the genitalia. However, there are no scientific medical justifications in requiring practicing FGM.

It has been estimated that in Asia, Africa and in Middle East; more than 220 million girls have been subjected to the practice of FGM. The fact remains that even infant girls are not immune from this practice and that FGM is performed upon them when they are on tender stage of their lives, from one year old to fifteen years old.^[2]

FGM technically involves the removal of certain areas of female genitals. The main areas of female genitalia that are impacted in FGM include the clitoral glans, clitoral hood, labia minora, labia majora, including the vagina. These genital parts are either partially cut or are entirely removed. When they are completely removed, they are closed by stitching and in this process the vaginal opening is also impacted as the same is also closed partially with stitching thus reducing its natural size. Thus, the partial closing of the vaginal opening through stitching is also one of the FGM practice.^[3] Apart from this, in worst cases, the genitalia is injured or poked by adopting inhumane and painful methods such as piercing, pricking etc. Therefore, the entire genitalia of a female is affected in FGM by incorporating these methods into the practice.

Historical background of FGM

The practice of FGM is not a modern concept. It has its roots embedded in historical accounts of countries where the practice is even still performed. Although there is no single universal acceptance as to the origins of FGM, however, it is believed by scholars and professionals that it began to be practiced in African countries, Egypt and Sudan, as early as fifth century B.C. The mummies in ancient Egypt were also found to be circumcised which points towards the early practice of cutting female genitals.^[4] On the other hand, some researchers relate the practice of FGM to the times of ancient Rome.

Apart from these counties, female genital cutting were also prevalent in European nations. Here, it began to gain prominence in 1800's. In Europe, it was the result of an observation made by a doctor in his clinic on his female patients who were already undergoing treatment for mental ailments such as epilepsy etc. He noted that his patients resorted to masturbation several times a day which

ultimately resulted in rise of further health issues, for instance epilepsy; hysteria; idiocy etc. As per his observations, since the cause of their mental issues was related to their involvement in masturbation, therefore, he concluded that their genitals be altered by being cut.^[5]

Since there is no final conclusion as to the actual origins of the practice of FGM, further studies are underway in this field. However, today it is known that FGM is majorly prominent in more than twenty eight counties of the world that are the constituents of African and Asian Continents, particularly South-East Asia, including some Arab nations.

The reason behind the practice of FGM

There is no scientifically and medically backed notion to justify the practice of FGM. Yet it is widely practiced in certain communities. Maintaining a girl's chastity, ensuring her fidelity when she enters womanhood and preserving the bond of marriage are considered justifications behind the practice of FGM. Apart from this, the preservation of the precedent of the practice of FGM is regarded another reason that this social custom is still being given relevance.

FGM in India

India is not unfamiliar with the practice of FGM. Many girls in the country have become and are still becoming subjects of this practice. FGM is mainly prominent among the members of the Dawoodi Bhora community. It has been revealed in a study that in India more than 70% of girls belonging to this community have been made to undergo the procedure.^[6] Most of the people of the community believe that subjecting their girls to FGM is a custom that cannot be broken and needs to be carried on from one generation to the other. This is one among many reasons behind the continuance of the practice in the country, the other being to maintain the purity and virginity of girls especially when they reach the stage of womanhood and prior to their marriage.

The recognition of the existence of FGM in India is substantially tabooed. This subject matter is largely not preferred to be discussed even by responsible people. Since, there is no serious recognition of this practice in the country, even after being actually practiced, and ultimately not prohibited therefore a number of girls have to undergo the painful procedure of being cut at a very young age and being assisted by their own guardians, mothers and grandmothers.

Health risks to girls owing to FGM

Since FGM involves the cutting of sensitive areas of a female's genitalia by sharp and blunt objects, often unsterilized, the practice results in breeding of various forms of health issues in girls who are made to undergo the same. In addition to this, there does not exist any plausible medical justification in performing the procedure of FGM.

FGM gives birth to innumerable health risks. Some health issues are life long and can adversely affect the quality of life that girls live post the procedure. Severe pain, profuse bleeding immediately post FGM, problem urinating, decreased immunity to fight infections and diseases, infertility, failed pregnancies, serious problems during child birth, life threatening scenarios for mother during child birth, severe loss of blood resulting in death etc. are some of the immediate health risks that occur post FGM procedure^[7].

Apart from these physical problems, several mental health issues also become pronounced. Anxiety, depression,

sleeping problems, suicidal thoughts, nightmares etc. are some of the after effects of the FGM procedure.^[8]

Thus, it becomes difficult for girls to lead their lives normally after this procedure is imposed upon them.

FGM: Child abuse and a violation of human rights

Every person, whether an adult or a child, has an inherent fundamental right to live and to lead a life of dignity and self-respect. Their human rights are protected through international conventions and laws which aim to preserve and uphold the very essence of existence of a human being. The Universal Declaration of Human Rights, a widely celebrated international human rights document, ensures to each individual their right to life, liberty and security of person^[9], among other entitlements. Apart from this, the document also recognizes the need that children be granted special care and treatment so that they are able to fully enjoy their childhood and lead a fulfilled life.^[10]

FGM, being a derogatory and undignified treatment given to young girls starting from their birth till they attain age of fifteen years^[11], is regarded as child abuse. The United Nations Population Fund has even declared the practice of FGM against young girls as child abuse.^[12] It can also be so regarded as it is essentially violence and mistreatment meted out to female children on certain disguised pretexts by their own guardians. Moreover when they are subjected to FGM, the practice is performed in the absence of their informed consent since they are so young that they are naturally unable to make a rational judgment for themselves. In other words, it can be substantially said that FGM is practiced mainly upon minor female girls and that is the main ground as to why FGM is regarded as child abuse.

Stance of international community against the practice of FGM

Since FGM is a global concern, therefore, it is imminent that it involves the expertise and stand of international community in eliminating the practice. The concern for addressing the issue of practice of FGM is a serious one. The international community is contributing in an endeavor to abolish the abusive practice being performed against little girls. It needs to be noted that there is no specific international law against FGM, however, certain steps have surely been adopted by the global community in this matter. The United Nations Population Fund, by declaring FGM as child abuse, has revealed to the world community; especially to societies where it is revered; the gravity of the practice and its violative nature that impacts lives and dignities of girls. The world community, in order to give recognition to the issue of FGM and to contain such practice, among other objectives have adopted the Sustainable Development Goals (SDGs) in 2015. These goals were made the concern of the meeting and were officially acknowledged and adopted by representatives of nation states in 2015. Aiming for achieving a sustainably balanced world, SDGs finally came into operation on January 1, 2016.^[13] Among achieving other aims, eradicating the practice of FGM is one of the humanistic visions of these goals, being the fifth sustainable goal.

The United Nations General Assembly in its sixty-seventh session in 2012 called upon nation states to undertake certain necessary steps in order to end the harmful practice of FGM. '*Intensifying global efforts for the elimination of female genital mutilations*' was the initiative taken by the

body for the said purpose. The Assembly recognized the significant contribution that women and girls make in societies that ultimately leads to development and progress in communities and in the world. In particular, the body underscored the importance of empowering women and girls as the same helps in paving way to societal harmony by repressing instances of discrimination and violation of human rights.^[14] In addition to this, the resolution also called upon states to play their part in protecting girls from becoming subjects of FGM and to create environment where necessary enlightenment can be provided in societies as to how the said practice infringes basic rights of young girls and hinders their overall development.

From this perspective, statistics reveal that as of now there are only fifty-one nations in the world that have criminalized FGM by adopting appropriate legislations in their respective national legal systems.^[15] This includes the United States; Canada; New Zealand; Australia; the United Kingdom; Croatia etc. In addition to this, about eighteen countries in the African Continent have drafted laws and policies specifically against the practice of FGM,^[16] including Ghana; Sudan; Egypt; Djibouti; Guinea; Somalia; Nigeria; Uganda; Burkina Faso; Tanzania etc.

Particularly in case of Africa, where up to eighty percent cases of FGM have been reported,^[17] necessary initiation was undertaken with a vision to abolish the practice. *The Solemn Declaration on Gender Equality in Africa* was agreed and adopted by the African Union in 2014 and the same was in consonance with the principles of equality, dignity and respect for human rights, especially from the context of elimination of FGM. Likewise, the Provisional Constitution of Somalia has declared FGM a cruel and a degrading practice that attacks a person's dignity and self-respect.^[18]

Besides these steps against the practice, there are several international laws that do serve the purpose of preserving rights and dignities of young girls and protecting them from becoming subjects of FGM.

The Universal Declaration of Human Rights, 1948

Various international legal references exist today that are enough to declare the practice of FGM child abuse and a grave infringement of human rights. The Universal Declaration of Human Rights is one of the paramount human rights instruments in the world. It is so because it lays down and upholds certain fundamental and essential principles necessary for human existence. These principles are basically foundational aspects upon which rest the very essence of a dignified and fulfilled life of an individual. The document has also inspired other global instruments seeking to address and support the cause of human development and progress.

From the context of protection of rights of children, the UDHR provides an equal stance and grants protection to every individual, including children. The declaration provides equality to all human beings and holds that every person, including children; irrespective of his or her background; enjoys equal freedom along with self-respect and dignity.^[19] The declaration also grants right to life to every individual, including children.^[20] In addition to the same, all human beings are protected from adverse acts committed against them, such as torture; exploitation; undignified treatment etc.^[21]

From the context of girls who are made to undergo FGM, these human rights under UDHR are equally applicable to them.

The Convention of the Rights of Child, 1989

The Convention on the Rights of the Child of 1989 protects children from various forms of abuse and exploitation. It aims to specifically preserve the dignity of a child by putting prohibition on the practice of various forms of injustices, for instance, physical and mental injury; violence; abuse, including sexual abuse; neglect; exploitation etc.^[22] In relation to this provision of the Convention with practice of FGM, it can be said that the latter is clearly not in consonance with humane principles of the instrument and the vision with which it was framed. Thus, the practice of FGM constitutes violation of human rights of children as it abuses their very physical integrity.

In addition to above, the Convention also upholds right to life of children, including their entitlement to an overall fulfilled development.^[23] They are also entitled to have a satisfactory standard of living and health so that they lead a life free from ailments.^[24] The Convention even provides recognition to the ability of a child to provide his or her consent, depending upon the maturity of the person, pertaining to all matters affecting his or her personality and life.^[25] Thus, FGM and its practice degrade humane aspects of the rights of children and their overall foundational human rights.

The Geneva Declaration of the Rights of the Child, 1924

The Geneva Declaration of the Rights of the Child or simply the Declaration of Geneva is another important international instrument that aims to grant relief, care and protection to children in all areas of their life and in all civic scenarios, for instance, their social; cultural and economic aspects. The instrument, apart from these protections, also secure children from instances of abuse and exploitation in all their forms. Article 4 of the Declaration of Geneva upholds the same. Thus, the protection of girls against FGM can be secured through the humane provisions of Declaration of Geneva.

The International Covenant on Economic, Social and Cultural Rights, 1966

The International Covenant on Economic, Social and Cultural Rights or ICESCR is one of the major human rights instruments followed by nations around the world apart from the UDHR; which is regarded as the fundamental human rights document that inspired the emergence of other instruments working on the lines of protection of human entitlements; and the International Covenant on Civil and Political Rights.

Apart from recognizing that each person, including children, has a fundamental right to dignity and self-respect, the ICESCR aims to secure three significant aspects of a person's life; economic, social as well as cultural. These areas are fundamental for an individual to grow and progress in society and become a better contributing member of community. In case of protection of rights of children from abuse and injustice, the instruments specifically speak of realizing the goals of social justice for children by ensuring their safety from social exploitation.^[26] From this perspective if we try to relate the practice of FGM being performed on young girls, it can safely SAID that it is

one of the forms of social exploitation. Thus from this view, it is a serious violation of the principles of ICESCR and further an abuse of rights of young girls who are made to undergo FGM.

International Covenant on Civil and Political Rights, 1966

The International Covenant on Civil and Political Rights or ICCPR is also a significant human rights instrument that seeks to protect the political and civic rights of people in the world. From the point of view of protection of children, the ICCPR upholds the inherent right to life to every person, including children.^[27] In addition to this, the covenant protects every individual from situations of abuse; torture; inhumane experimentations, whether medical or not; undignified treatment etc.^[28] This suggests that the practice of FGM upon young girls is a clear and direct infringement of their fundamental human rights and of the humane principles of ICCPR.

The Convention on the Elimination of All Forms of Discrimination Against Women, 1979

The Convention on the Elimination of All Forms of Discrimination against Women or CEDAW is a paramount international instrument that speaks about the importance of providing equal treatment to men and women in all aspects of life. The Convention also recognizes the relevance of contribution made by females in development of societies. The said instrument unambiguously focuses upon practice of non-discrimination against females in all spheres of their social, cultural and economic life.

CEDAW declares that it is important that all forms of exploitation against females need to be suppressed so that they can fully contribute in the area of social progress.^[29] In addition to this, females should be provided adequate and timely medical assistance when in need like their male counterparts in order that they can attain their highest standard of health.^[30]

Relating these provisions of CEDAW with FGM being practiced upon females, it can be said that the latter is in violation of the humanistic objectives of the former.

Thus, all these international conventions and laws; as discussed above; play a significant role in addressing the issue of harmful practice of FGM upon girls. These laws, in effect, are equally applicable to cases of performance of FGM against young girls.

Suggestions/steps that can aid in eradicating the practice of FGM

It is a well known fact that FGM is a deep rooted cultural practice performed by certain communities. However, it also needs to be understood that this practice deeply violates basic human rights of young girls and infringes their dignities and in extreme cases even endangers their lives leading to death. The subject of FGM and a concern for its abolition demands an immediate attention. Thus, with a view to acknowledge this matter certain sustainable steps needs to be adopted so that young girls including the next generation is preserved from being made subjects of FGM and its hazardous consequences.

1. Education and awareness on FGM: It is undeniably needful that proper awareness be disseminated among people on FGM and its after effects on young girls, especially among those who practice it. Further,

awareness can be spread only through proper education. It is through educating people, both adults as well as young girls, that the practice of FGM can be abolished. Statistically, it has been estimated that education does play a strong role in helping people, especially girls, understand about FGM and its devastating effects on them. Literacy has a direct impact upon thought processes of people in rejecting FGM. It has been found that about seventy percent of people, including women, who receive secondary and even higher education, do not support the practice of FGM.^[31] It is through education that people are able to make judicious decisions in a sustainable way, specifically when it comes to FGM. Thus, the more educated people are the more likely they are to denounce the practice as they become aware about FGM, its serious health related issues and human rights that are affected by it.

- 2. Conducting educational events, workshops etc. on FGM:** Conducting educational sessions, seminars, workshops and other public-centered events can greatly aid in enlightening minds of people and ultimately societies about FGM and its effects on human body including its long term impacts. These sessions and events can be organized by various institutions and even experts, such as, schools; universities; Non-Governmental Organizations; public spirited persons; people in authorities; local governments; association of medical practitioners; association of lawyers; activists etc. Basically, it involves an active cooperation from various sectors and fields. In other words, every member of society needs to come forward and share their expertise on FGM and its harmful impacts on young girls. This will result in educating people, including girls, of human rights that are affected due to the practice of FGM.
- 3. Societal collective renouncement of FGM:** Another way through which the practice of FGM can be abolished is if practicing societies collectively pledge to renounce or discontinue performing FGM. It is one of the most reliable methods against the practice. People that practice FGM need to understand its harmful effects on young girls that are made to undergo the practice and that the same has an impact on them when they reach womanhood. According to the World Health Organization, the collective commitment of societies, that perform FGM, to unfollow and renounce the practice can to a great extent help in combating this social menace. All that is required is a sincere pledge from communities to discontinue performing FGM.^[32]
- 4. Need for legislations on curbing the practice of FGM:** It is a responsibility of individual nation states to come forward and provide their contributions in the endeavor of eliminating FGM. This can become a possibility if nations of the world frame relevant legislations prohibiting the practice within their jurisdictions along with prescribing stringent punishments for such commissions. This step could aid the world in achieving one of the SDGs, that speaks about ending FGM and gender discrimination, by eliminating the same by 2030. In this context, it is pertinent to mention that countries, for instance,

Australia; New Zealand; the United Kingdom; Egypt; Guinea; Kenya etc. have criminalized the practice of FGM and have made a step towards eradicating the said practice.

Thus these suggestions, as discussed above, can prove greatly useful in eradicating the harmful practice of FGM. It is through the collaborative efforts of both international community as well as individual nation states that the aim of ending the practice of FGM could be achieved.

Conclusion

Human rights and freedoms are essential tools of human progress and fulfilled existence. Every person, irrespective of gender identities; background; race; color; religious beliefs; economic status etc.; is entitled to equal enjoyment of fundamental freedoms. Even young girls are entitled to right to life and a healthy future. This is further true from the context of instances of FGM being practiced upon girls from a young age.

Female Genital Mutilations or FGM is a social evil that requires immediate eradication as it infringes upon rights of female children. It affects millions of girls each year as they have to go suffer the consequences of the practice all their life, including long term effects.

FGM has its roots in ancient times, however, in modern era the matter of this practice is being addressed seriously; both by the world community along with individual nation states. Various international organizations and bodies are contributing their expertise in this field, for instance, the United Nations; the United Nations General Assembly; the World Health Organization; the United Nations Population Fund; the African Union etc. Apart from this, individual nation states have also stepped forward in protecting rights of young girls by drafting relevant legislations and policies.

In addition to this, various international conventions and laws have been made that addresses the matter of protection of rights of young girls from FGM. For instance, the UDHR; the ICCPR; ICESCR; CEDAW; the Convention on the Rights of Child; the Geneva Declaration of the Rights of Child etc.

After all that is being done by the world community for preserving rights and dignities of young girls, it is ultimately hoped that female children will be free from the practice and that they will be able to lead their lives fully and in a self-sufficient manner.

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