

# **FEMALE GENITAL MUTILATION: AN EXAMINATION OF ITS IMPACT ON WOMEN’S RIGHTS AND EMPOWERMENT**

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## **Abstract**

Female Genital Mutilation (FGM) reflects a deeply ingrained cultural and gender-based practice that continues to infringe upon the basic rights and well-being of women and girls worldwide. The authors of this paper go into the intricate link between FGM and women’s rights, addressing the historical, cultural, and societal elements that support this damaging custom. They further analyse the worldwide legal framework and activities meant to eliminate FGM, highlighting the vital role of human rights in resolving this global problem. This paper highlights the physical and psychological implications of FGM, highlighting how it fosters gender inequity and violence against women. Additionally, it highlights the need of community participation and education as crucial measures in eradicating FGM while preserving cultural sensitivity. The authors emphasize the importance of comprehensive, rights-based approaches that empower women to challenge cultural norms and advocate for their rights, in addition to eradicating harmful practices.

**Keywords:** Female Genital Mutilation, Human Rights, Women Empowerment, Customs, India

- I Introduction**
- II Evolution, Physiology and the Practice of FGM**
- III International Legal Frameworks and the Battle against Female Genital Mutilation**
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## **I Introduction**

IN THE words of Winston Churchill, “*all great things are simple, and many can be expressed in a single word: freedom, justice, honour, duty, mercy, hope.*” The notion of justice has been deeply embedded throughout society from its beginning and has undergone a natural process of evolution throughout history. Dating back to the earliest civilizations, this concept has played a fundamental role in establishing social structure and fostering harmonious relationships among individuals.

The idea and theory of justice has significant philosophical importance and plays the part of fundamental principle throughout global socio-political and legal frameworks. As the State underwent expansion, the notion of justice gained more prominence and exerted its

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influence across many domains of human endeavours. The coexistence of individuals within a societal framework inherently generates divergent interests that need a delicate equilibrium with the intention to attain tranquillity, concord, and steadfastness. Justice behaves and operates as a fundamental concept that directs the equitable administration in several aspects of human existence.

The judiciary has been integrating novel aspects of justice into the legal framework, including current societal ideals and rights that align with Constitutional mandates, including freedom, liberty, dignity, equality, and social justice. The primary aim of legal justice is to ensure the uniformity and foresee ability of the law, while concurrently protecting the appropriate acknowledgment of rights and obligations by persons. According to the observation made by Justice Krishna Iyer, the fundamental basis of the Constitution is in ensuring equal access to justice for all individuals.<sup>1</sup> Moreover, Lord Bryce clearly observed that the effectiveness of a government's judicial administration is a crucial measure of its overall merit.

The central aim and fundamental intention of the legal system and its interaction with society is to make certain that justice is securely preserved and properly promoted. The administration of justice involves the preservation of peace and order within a political society by means of the State's use of physical coercion. The notion of justice has seen several phases of change within contemporary society. Within the framework of the Indian legal System, the dispensation of justice may be coarsely indexed as two prominent disparate networks: the 'civil law system' and the 'criminal law system'. Blackstone categorized these offenses as 'private wrongs and public wrongs,' with the former denoting the infringement upon the civil or legal rights of individuals (civil injuries), and the latter denoting the infringement upon public rights and obligations that impact the whole society (crimes or misdemeanours). Crimes are seen as transgressions against the collective community and are subject to legal sanctions imposed by the State. The fundamental purpose of the administration of justice is to guarantee unbiased opportunities for every individual who engage with the legal system, therefore cultivating a climate of societal cohesion.

Female Genital Mutilation (hereinafter referred as "FGM") is defined as the "the deliberate removal of external female genitalia, either partially or entirely, for non-medical reasons". This practice is otherwise called "Female Genital Circumcision", "Female Genital

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<sup>1</sup>*State of Haryana v. Darshana Devi*, AIR 1979 SC 885.

Cutting” (FGC), “*Khatha*”, or “*Khafd*”<sup>2</sup>. In the local context, this practice is often known as *Pagsunna*, *Pag-Islam*, or *Turi*. The practice of female circumcision, performed by traditional circumcisers, who are sometimes referred to as midwives, involves the removal of genital tissue from young girls ranging from infancy through puberty, and occasionally adult women. This surgery is often executed through use of apparatus like razors or scissors. The precise origins of FGM are uncertain; nonetheless, it is widely postulated that this practice began about two millennia ago. Numerous anthropological and historical investigations have been undertaken in order to elucidate this phenomenon; nevertheless, no definitive evidence has been discovered to substantiate any one hypothesis.<sup>3</sup> There is a suggestion that the dissemination of FGM occurred via the assimilation of pre-existing initiation ceremonies for both males and females within the ‘original cores.’ The practice of FGM is observed globally, despite its beginnings being shrouded in doubt. It serves as a means to fulfil many cultural and socioeconomic objectives for the societies who continue to endorse it. The existing literature implies that the particular behaviour mentioned is not exclusive to any one group, religion, or ethnicity. FGM has a high prevalence in over 30 nations, mostly situated in the western, eastern, and north-eastern parts of Africa. Additionally, many Middle Eastern and Asian countries, notably those with migrant populations, also have instances of FGM. As a result of migration, the practice of FGM has also disseminated to New Zealand, North America, Europe, Australia, and Scandinavia. FGM is a prevalent practice in India, namely among the Dawoodi Bohra community. This population belongs to the Tayyabi Mustaili Ismaili sect, a branch of Shia Muslims. The practice is largely observed in western towns of India, along with Pakistan, East Africa, and Yemen. The phenomenon of FGM is a worldwide concern that is deeply entrenched in principles of inequity and rationalized under the guise of religious and cultural traditions. The rationales for the adoption and dissemination of this practice exhibit regional disparities, although the adverse repercussions it engenders are universally detrimental. FGM has detrimental consequences on the physical and emotional well-being of women, exerting long-lasting repercussions that may even lead to fatality in some instances. The aforementioned behaviour is deemed repulsive and cruel, since it infringes against the fundamental human rights of women. FGM is a kind of violence that is inherently discriminatory, since it infringes upon individuals’ fundamental rights to life and

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<sup>2</sup>Overview -Female Genital Mutilation (FGM), *available at*: [https://www.nhs.uk/conditions/female-genital-mutilationfgm/#:~:text=Female%20genital%20mutilation%20\(FGM\)%20is,megrez%20and%20khitan%2C%20among%20others.](https://www.nhs.uk/conditions/female-genital-mutilationfgm/#:~:text=Female%20genital%20mutilation%20(FGM)%20is,megrez%20and%20khitan%2C%20among%20others.) (last visited on September 3, 2023).

<sup>3</sup>Armelle Andro, “Female Genital Mutilation-Overview and Current Knowledge” 71(2) *Population* 215-296 (2016).

dignity. Hence, it might be posited that these specific initiatives are indicative of cruelty and fail to adhere to the legal regulations. Ensuring the regulation and safeguarding of the rights of women who are subjected to this practice on a global scale is of utmost importance.

## **II Evolution, Physiology and the Practice of FGM**

*'It was much easier to explain the veil than to answer questions about the wounds.'*<sup>4</sup>

The foundational antecedents of FGM remain somewhat obscure; however, it is widely postulated that this practice started about two millennia ago. Numerous anthropological and historical investigations have been undertaken in an attempt to comprehend this phenomenon; nevertheless, no definitive evidence has emerged to substantiate any one hypothesis. One hypothesis posits that the practice of FGM expanded beyond its 'original cores' by amalgamation with pre-existing initiation rites pertaining to both males and females.

Although the precise origins of FGM remain obscure, this practice is seen globally and fulfils many functions among the societies who engage in it<sup>5</sup>. According to David Gollaher<sup>6</sup>, the precise roots of FGM remain elusive because of its prevalence across many cultural contexts, such as Australian aboriginal tribes and numerous African nations. The phenomenon of FGM has undergone notable transformations throughout time, exhibiting diverse manifestations and interpretations across various cultural and geographical contexts. Gaining insight into the roots of a subject matter may facilitate a deeper comprehension of its intricacies and prevent the tendency to oversimplify<sup>7</sup>.

Empirical findings point that FGM transcends the boundaries of any one society, religion, or race, and its practice predates the emergence of both Islam and Christianity. The oldest reference to the practice of male and female circumcision may be traced through to the insights of the Greek geographer Strabo, who chronicled his perceptions and assessments over the course of his journey to Egypt in around the twenty-fifth century BC. Certain academics propose that the region encompassing Ancient Egypt, which corresponds to

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<sup>4</sup>Pawan Mishra, *Coinman: An Untold Conspiracy* (Lune Spark LLC, Delhi, 2017).

<sup>5</sup>Ross C.T., et al. (2016). "The Origins and Maintenance of Female Genital Modification across Africa: Bayesian Phylogenetic Modelling of Cultural Evolution under the Influence of Selection" 27(2) *Human nature* 173–200 (2016).

<sup>6</sup>David Gollaher, *Circumcision: A History of the World's Most Controversial Surgery* (Basic Books, New York, 2016).

<sup>7</sup> Tracing the Origins of Female Genital Cutting: How It All started, available at: <https://sahiyo.com/2018/07/21/tracing-the-origins-of-female-genital-cutting-how-it-all-started/> (last visited on September 5, 2023).

present-day Sudan and Egypt, might perhaps be the geographical location where the practice of circumcision originated. This assertion is supported by the identification of mummified individuals from the fifth century BC who exhibited signs of having undergone circumcision. Alternative theories suggest that the diffusion of this technique occurred through the channels of the transatlantic slave trade, originating from the western coast of the Red Sea and extending to the southern and western areas of Africa. Another hypothesis posits that the dissemination may have transpired from the Middle East to Africa facilitated by Arab merchants.

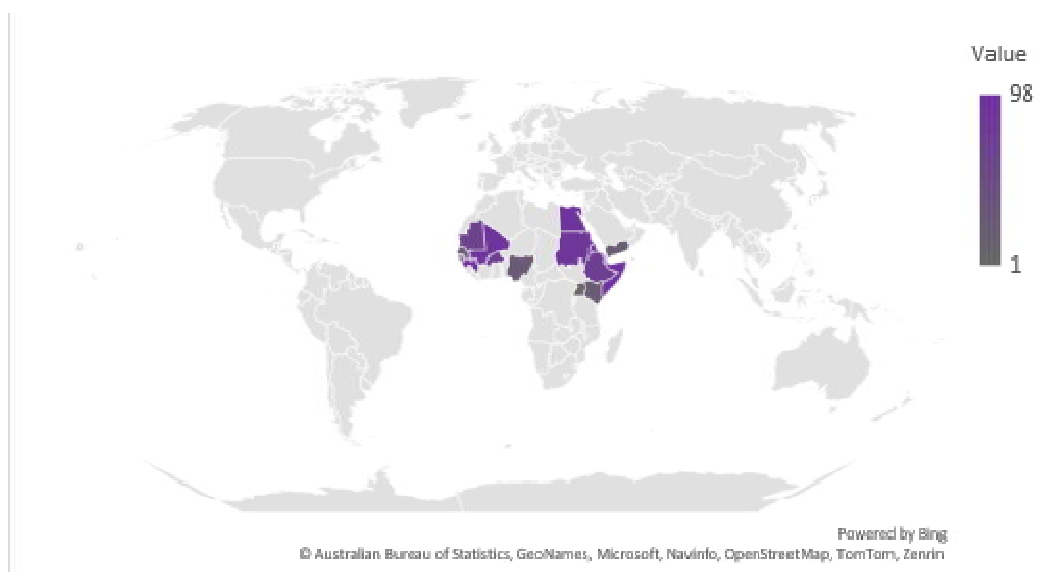


Fig. 1 – Prevalence of FGM in Africa<sup>8</sup>

### Physiology and Medical Jurisprudence

The female reproductive system includes a combination of internal organs and exterior components. The exterior structures of the reproductive system have dual functions, namely, enabling the ingress of sperm into the body and safeguarding the interior genital organs from potential infections. The primary external anatomical features include the *labia majora*, which serve to surround and safeguard the remaining external reproductive organs, while also housing glands responsible for the secretion of perspiration and oil. The *labia minora*, which are comparatively smaller in size, are situated in close proximity to the *labia majora*. Their primary function is to enclose the entrances to the vagina and urethra. The Bartholin glands, situated next to the vaginal introits, are responsible for the production of a mucus discharge.

<sup>8</sup>Female Genital Mutilation (FGM) Frequently Asked Questions, available at: <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions> (Last visited on September 5, 2023).

The clitoris, an anatomical structure characterized by its tiny size and sensitivity, is situated at the convergence point of the *labia minora*, enveloped by a protective layer of skin known as the prepuce.

The phrase ‘female genital mutilation’ is widely recognized and used to refer to “non-medical operations that entail the partial or complete removal of the external female genitalia”<sup>9</sup>.

This practice is commonly known by various terms such as female genital circumcision, female genital cutting (hereinafter referred as “FGC”), *Khatna* or *Khafd*. Within local contexts, terms like *Pagsumma*, *Pag-Islam*, or *Turiare* commonly employed to denote this practice. The term ‘*Pagsumma*’ typically signifies the circumcision of women, while ‘*Pag-islam*’ is used to refer to the circumcision of men. In Arabic nations, this practice is referred to as *Tahur* or *Tahara*, which translates to purification.

The word ‘mutilation’ is used in accordance with medical criteria, as it designates the act of removing a healthy and normal organ from the anatomy of an individual without any medical or aesthetic justification, hence meeting the definition of mutilation. The nomenclature used to delineate the said course of action has been altered all through its historical development. The term ‘female circumcision’ was first used to describe the technique when it gained recognition outside traditional civilizations<sup>10</sup>. Nevertheless, the inclusion of this phrase can be seen to culminate ambiguity when discussing male circumcision. The phrase ‘female genital mutilation’ garnered endorsement during the late 1970s, since it introduced a significant language differentiation from male circumcision and underscored the severity of the practice by virtue of its unfavourable implications. The phrase in question was officially accepted at the third session of the “Inter African Committee on Traditional Practices Affecting the Health of Women and Children” (IAC) in Addis Ababa in 1990<sup>11</sup>. The practise of this language by the United Nations was advocated by the World Health Organization (hereinafter referred as “WHO”) in 1991, and it has since gained extensive usage in UN papers. The use of the term ‘mutilation’ serves to underscore the infringement of the rights of bodily autonomy of girls and women, therefore fostering a call

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<sup>9</sup>Female genital mutilation - Fact sheet, available at: <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation> (Last visited on September 6, 2023).

<sup>10</sup>L Morison, C Scherf, *et.al.*, “The Long-Term Reproductive Health Consequences of Female Genital Cutting in Rural Gambia: A Community-Based Survey” 6 *Tropical Medicine & International Health* 643-653 (2001).

<sup>11</sup>Imogen Evans, “Reproductive Health and Human Rights: Integrating Medicine, Ethics, and Law” 97 *Journal of the Royal Society of Medicine* 262 (2004).

for action in favour of its cessation. In indigenous vernaculars, the customary ritual is often denoted as ‘cutting,’ a phrase that has a more neutral connotation provided the fact in the eyes of parents the insinuation with the terminology of ‘mutilating’ their female offspring may give rise to negative sentiments.<sup>12</sup>

FGM, as per the WHO’s definition, comprises a spectrum of treatments that entail the partial or whole excision of the external female genitalia, or the infliction of any other kind of harm to these anatomical structures, motivated by cultural or non-therapeutic rationales.

### **The Health Implications of FGM and the Vital Role of Healthcare Professionals in Mitigating its Effects**

The act of FGM gives rise to a wide range of immediate and enduring consequences. The potential health ramifications may be substantial and grave, but the availability of statistical data on medical issues is limited. The absence of information about FGM may be attributed mostly to a dearth of medical research undertaken in the regions where this practice is common. Furthermore, the absence of comprehensive medical data and patient registrations in these nations poses further challenges to research endeavours<sup>13</sup>.

According to Cutner<sup>14</sup>, only a mere 15-20 percent of issues arising from FGM are documented and reported to healthcare professionals with specialized training. The phenomenon of underreporting may be ascribed to a multitude of variables, including but not limited to restricted availability of healthcare facilities, circumcisers’ inclination to manage difficulties independently, and a prevailing dearth of knowledge among the population. The lack of exact data may be attributed mostly to the use of retrospective questionnaire research or investigations conducted inside hospital settings.

The possible consequences associated with FGM are determined by multiple components, including the specific kind of circumcision undertaken, the proficiency of the individual performing the surgery, the sanitary conditions maintained throughout the process, and the general health status of the female undergoing circumcision<sup>15</sup>.

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<sup>12</sup>Bettina Shell-Duncan, “The Medicalization of Female ‘Circumcision’: Harm Reduction or Promotion of a Dangerous Practice?” 52 *Social Science & Medicine* 1013 (2001).

<sup>13</sup>Maria Kontoyannis and Christos Katsetos, “Female Genital Mutilation” 4 *Health Science Journal* (2010).

<sup>14</sup>Kirsten Lee, “Female Genital Mutilation - Medical Aspects and the Rights of Children” 2 *International Journal of Child Rights* 35 (1994).

<sup>15</sup>C. Momoh, “Attitudes to Female Genital Mutilation” 12 *British Journal of Midwifery* 631-635 (2004).

The practice's inherent propensity for secrecy often results in circumcisions being conducted on unhygienic surfaces, including floors, tables, beds, or the ground. Therefore, the maintenance of environmental cleanliness assumes paramount importance and has a substantial influence on the prevalence of problems. The involvement of the midwife and the surgical tools employed to carry out circumcision are of notable importance, since the operations often include the utilization of glass, razor blades, knives, and non-sterilized thread for suturing. The absence of proper sterilization protocols during medical operations may give rise to significant infections, perhaps culminating in problems that pose a danger to an individual's life. The comprehensive well-being of the female undergoing circumcision, encompassing elements such as immune functionality, haemoglobin concentrations, and hormonal imbalances, may further lead to the emergence of heightened problems.

### **FG Macross Borders: A Comprehensive Study on Geographic Prevalence**

The practice of FGM is observed in more than thirty nations, particularly prevalent in the western, eastern, and north-eastern regions of Africa. Furthermore, this practice is also found in select countries in the Middle East and Asia. Due to immigration, FGM has spread to other areas such as Europe, New Zealand, North America, Australia, and Scandinavia. In India, FGM is prevalent primarily among the Dawoodi Bohra Community, which belongs to the Tayyabi Mustaili Ismaili sect of Shia Muslims. This community is predominantly found in urban areas of Western India, East Africa, Pakistan, and Yemen. While the Bohra community is concentrated in the states of Gujarat, Maharashtra, and Rajasthan, some members have relocated to urban centres like Kerala, Delhi, and Telangana.

The Bohras are a somewhat compact and tightly-knit faction of Shia Ismaili Muslims, mostly concentrated in the region of Gujarat, India. However, they also maintain a dispersed population throughout many nations including the United States, Canada, Australia, Europe, and Africa. The global Bohra population is believed to be at two million, with the Dawoodi Bohras being the biggest component within this community.

The prevalence of FGM is believed to impact the lives of approximately 200 million women across thirty nations, with an annual risk of roughly 3 million girls getting the surgery<sup>16,17</sup>. The incidence of female genital mutilation (FGM) exhibits notable variations

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<sup>16</sup>Female Genital Mutilation: A global concern, *available at*: <https://data.unicef.org/resources/female-genital-mutilationcutting-global-concern/> (last visited on September 6, 2023)

<sup>17</sup>United Nations Children's Fund, "Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change" 3 (2013).



across different nations, with a notable occurrence over 80 percent in eight specific countries. In addition, the significant point to highlight here is that prevalence rates exhibit variations among different areas within nations, and ethnicity emerges as a prominent factor driving these differences.<sup>18</sup>

Female genitalia mutilation prevalence by country <sup>19</sup>		
Sl. No.	Country	Female genital mutilation prevalence (%)
1	Benin	9.2
2	Burkina Faso	75.8
3	Cameroon	1.4
4	Central African Republic	21.6
5	Chad	34.1
6	Cote d'Ivoire	36.7
7	Djibouti	94.4
8	Egypt, Arab Rep.	87.2
9	Eritrea	83.0
10	Ethiopia	65.2
11	Gambia	72.6
12	Ghana	2.4
13	Guinea	94.5
14	Iraq	7.4
15	Kenya	21.0
16	Liberia	31.8
17	Maldives	12.9
18	Mali	88.6
19	Mauritania	63.9
20	Niger	2.0
21	Nigeria	19.5
22	Senegal	25.2
23	Sierra Leone	83.0
24	Somalia	99.2
25	Sudan	86.6
26	Uganda	0.3
27	Yemen, Rep.	18.5

### III International Legal Frameworks and the Battle against FGM

The field of Gender Studies and the movement for Women's Rights have seen substantial transformations throughout history. The growing integration of women into the sphere of human rights has transpired concomitantly with their increasing participation in public affairs. The Charter of the United Nations, ratified in 1945, seeks to reassert the significance of basic human rights, the intrinsic worth and respect of all individuals, and the equitable

<sup>18</sup> United Nations Children's Fund, "Female Genital Mutilation/Cutting: A global concern" 9(2016).

<sup>19</sup>Female genital mutilation prevalence (%), available at: [https://data.worldbank.org/indicator/SH.STA.FGMS.ZS?name\\_desc=false&type=points&view=map](https://data.worldbank.org/indicator/SH.STA.FGMS.ZS?name_desc=false&type=points&view=map) (last visited on September 4, 2023).

rights of both genders. The origins of these rights may be attributed to the philosophical framework of Natural Law. The concept of Women's Rights encompasses the legal, political, and social entitlements that are equivalent to those enjoyed by males. The topic of Women's Rights has garnered significant attention in global arenas, resulting in significant pledges towards safeguarding the fundamental individual rights of women and the promotion of gender equality. "The Universal Declaration of Human Rights" (hereinafter referred to as "UDHR"), which was enacted in 1948, acknowledges a variety of fundamental rights and guarantees equal entitlement for individuals of both genders. The use of the phrases 'all human beings' and 'everyone' throughout the declaration serves to underscore the objective of establishing entitlements which equally apply to every individual of all genders globally. The spectrum of "human rights" is encompassed by a range of conventions and covenants, such as the "International Covenant on Economic, Social and Cultural Rights"<sup>20</sup> (hereinafter known as "ICESCR") (1966), "International Covenant on Civil and Political Rights" (hereinafter mentioned as "ICCPR").<sup>21</sup> (1966), and the "Convention on the Elimination of All Forms of Discrimination against Women"<sup>22</sup>(hereinafter referred to as CEDAW)(1979). Additional significant treaties are the "Convention on the Rights of the Child"<sup>23</sup> (hereinafter written as "UNCRC") (1989), the "Convention on the Protection of the Rights of All Migrant Workers and Members of their Families" (1990), and the "Convention on the Rights of Persons with Disabilities" (2006). FGM is widely regarded as a practice characterized by its inherent cruelty and inhumanity, since it breeches the basic and core rights that an individual enjoys and perpetuates violence against women. The individuals or entities that have affixed their signatures to these papers are legally bound to adhere to the stipulations outlined within them. Quite a few countries around the globe have taken action by bring about legislations to outlaw and impose penalties on the conduct, either via comprehensive laws or targeted actions aimed at addressing the issue.

### **Practice of FGM as a Breach of International Women's Rights**

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<sup>20</sup> UN Secretary General, *International Covenant on Economic, Social and Cultural Rights*, UN Doc GA. Resolution 2200A (XXI) (December 16, 1966).

<sup>21</sup>UN Secretary General, *International Covenant on Civil and Political Rights*, UN Doc GA. Resolution 2200A (XXI) (December 16, 1966).

<sup>22</sup>United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), *Convention on the Elimination of All Forms of Discrimination Against Women*, UN Doc A/Res/34/180 (December 18, 1979).

<sup>23</sup>General Assembly, *Convention on the Rights of the Child*, UN GAOR, UN Doc Gar 44/25 (September03, 1981).

The act of FGM is a reprehensible and inhumane infringement upon the rights of women. By critically analysing international treaties and comprehending the physiological and practical aspects of FGM, the following arguments substantiate the severe infringement upon women's rights caused by this practice.

*Right to be free from Violence: Freedom from Torture, Cruel, Inhuman, and Degrading Treatment*

The "United Nations Declaration on the Elimination of Violence against Women" recognizes that acts of violence towards women are deeply rooted in long-standing gender disparities, which perpetuate the subordinate status of women. FGM encompasses practices that could be perceived as exhibiting cruelty, inhumanity, and degradation, resulting in various forms of physical, mental, emotional, and psychological harm. The "United Nations Special Rapporteur on Violence against Women" unequivocally asserts that FGM can be categorized as a form of torture. The cultural practices that cause physical pain, suffering, and the violation of bodily integrity are considered "acts of torture" under customary international law, regardless of a country's ratification or objections to the CEDAW.

*Rights of a Child*

Children are considered as lacking the competence to properly secure themselves and grant informed consent. Consequently, the law relating to the rights of individual on the international scale provide that children with particular protections. The "United Nations Convention on the Rights of the Child" (hereinafter mentioned as "UNCRC") acknowledges the rights of children and emphasizes their best interests as a vital consideration. Although there may be variances in cultural viewpoints on the meaning of a child's best interest, it is vital for these interpretations to be compatible with the special safeguards provided in the UNCRC. The UNCRC mandates member states to take effective measures aimed at eliminating traditional practices that have adverse impact on the health of children. The article forbids the imposition of torture, as well as cruel, inhuman, or degrading treatment or punishment against children. Additionally, it demands adopting measures targeted at aiding the recovery and reintegration in relation to those children who have experienced neglect, exploitation, abuse, torture, or armed conflict. Article 24 of the Constitution expressly applies to conventional habits which tend to lean towards a harmful influence on the well-being of children, and underlines the necessity for their ultimate elimination. While parents and families do participate in the decision-making process affecting children, it is ultimately the

government's job to preserve and respect the core entitlements that must be enjoyed by children. FGM is a technique that is commonly carried out on girls over a broad age range, extending from infancy through adolescence, generally up to the age of fifteen. In certain circumstances, FGM may even be done on adult women. The detrimental physical, mental, emotional, and psychological repercussions connected with FGM unambiguously defy the underlying assumption of the act being in the child's best interest.

### *Right to be Free from Discrimination*

Various treaties on the international platform which deal with the core rights of individuals provide protection against gender discrimination. The first article of the CEDAW in 1979 provides a definition of discrimination against women. According to this definition, discrimination refers to any differentiation, exclusion, or limitation based on gender that hinders or renders ineffective the acknowledgment, enjoyment, or exercise of women's human rights and fundamental freedoms in similar fashion to men. This definition applies irrespective of women's marital status and encompasses multiple disciplines, among other and also including politics, economics, society, culture, civil affairs, and other relevant spheres. FGM is a cultural practice that mainly seeks to exert control over women's sexuality and reinforce their subservient position within society. Consequently, this practice engenders gender-based discrimination, which curtails women's basic rights and freedoms.

### *The fundamental human right to life and physical well-being*

The protection of the right to life is ensured by many international documents, such as the ICCPR. The interpretation of this right of the "Human Rights Committee" necessitates that governments undertake 'affirmative actions' to safeguard life. The idea mentioned in Article 21 of the Constitution of India is also evident in its provisions. The concept of the right to integrity comprises a wide spectrum of aspects, which among others also include freedom from torture, safeguarding inherent dignity, ensuring liberty, security, privacy, and other related issues. FGM infringes upon an individual's autonomy to exercise agency over their own bodily integrity, often leading to significant physical injuries and perhaps fatal consequences. The aforementioned practice also infringes against the fundamental right to bodily integrity and safety, since it involves the non-consensual and forcible restraint of women throughout the process, so depriving them of their autonomy and informed decision-making. Moreover, FGM has been shown to result in psychological harm, causing disruptions

in sexual functioning and harming both the physical integrity and emotional well-being of women.

### *Right to health*

According to Article 12 of the ICESCR, persons are granted the entitlement to the best achievable level of bodily and mental health, hence establishing the right to health. FGM is often carried out by traditional midwives who lack specialized skills, using unsterilized crude instruments. This practice may result in hormonal imbalances and physiological aberrations inside the female body. Immediate consequences linked to this course of action encompass a range of adverse outcomes, such as intense pain, profuse bleeding, and swelling of genital tissues, infections of the urinary system and pelvis, vaginal discharges and infections, the formation of cysts, sexual dysfunctions, and serious difficulties during pregnancy, and sexual disorders. Moreover, engaging in this behavior may lead to several psychological and emotional afflictions, which among others also include sadness, anxiety, post-traumatic stress disorder, and diminished self-worth. The ramifications linked to FGM have significant implications on the physical and psychological well-being of women. Research has shown that FGM is related with sexual dysfunction and maternal health issues.

### *Other social, cultural, and economic rights*

Contrary to prevailing misconceptions, the practice of FGM is primarily grounded in cultural and customary norms, rather than religious doctrine. The presence of social pressure to adhere to peer standards and the apprehension of social exclusion operate as significant incentives for the perpetuation of this behaviour. The upbringing of a female child is widely seen as an essential aspect of her development, aimed at equipping her with the necessary skills and qualities to fulfil societal expectations of womanhood in later stages of life. The practice is deemed justifiable on the grounds of preserving cultural history and is seen as a crucial rite of passage into womanhood. Furthermore, this practice also serves to validate the perception of girls as being more suitable candidates for marriage, thereby leading to a decrease in dowry requirements and providing economic benefits for their parents. The aforementioned assertion excessively infringes upon the socio-economic and cultural rights of women by purportedly safeguarding family honor, upholding unadulterated familial heritage, and ensuring economic stability for women.

## **The International Legal Framework Governing the Practice of FGM**

FGM is a highly condemnable and barbaric practice that unambiguously infringes upon human rights and constitutes an act of violence perpetrated against women. Each signatory which has shown their acceptance of the relevant international agreements are required to abide by these standards. Sweden became the first Western country to prohibit the practice of FGM in 1982 with the implementation of the Act prohibiting the genital mutilation of women<sup>24</sup>. The United Kingdom subsequently followed suit in 1985<sup>25</sup>. The legislative framework surrounding FGM demonstrates significant diversity throughout the various countries. While some jurisdictions impose an absolute prohibition on the practice, others permit it under certain conditions, such as when conducted by licensed medical practitioners inside government-sanctioned healthcare establishments. The penalties for participating in FGM span from a minimum duration of three months to a maximum sentence of life imprisonment. Certain legislations impose fines just on persons who carry out the operation, whilst others broaden the scope of sanctions to include those who, as adults, seek the treatment for themselves or for children, as well as individuals who possess knowledge of the procedure being conducted but neglect to report it. Legislation pertaining to FGM in most African nations encompasses all age cohorts, however in non-African countries like the United States and Canada, it is only deemed unlawful when inflicted against those below the age of legal adulthood.

In the African continent, a total of eighteen nations have implemented legislation that renders FGM illegal. The Maputo Protocol, an instrument issued by the African Union, serves as a catalyst for the advancement of women's rights and the eradication of FGM. Its implementation began in November 2005.

### **IV Practice of FGM and the Violation of Women Rights In India**

FGM is an abhorrent and savage act that flagrantly violates human rights and the Fundamental Rights enshrined in the Constitution of India. India, as a signatory to the United Nations 'UDHR (1948), the ICCPR, and the ICESCR, has demonstrated its unwavering dedication to upholding these foundational principles. The aforementioned principles are elucidated in a multitude of international agreements, which include the International Convention on the Elimination of All Forms of Racial Discrimination, the CEDAW, the

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<sup>24</sup> Act (1982:316) Prohibiting Female Genital Mutilation, 1982 (Sweden).

<sup>25</sup> Prohibition of Female Circumcision Act, 1985 (UK)

UNCRC, and the “United Nations Convention against Torture”. It is worth emphasizing that India has ratified all of these treaties.

FGM infringes upon the Right to Privacy, which has been acknowledged as a ‘Fundamental Right’ in the decision of *K. S. Puttaswamy v. Union of India*<sup>26</sup>. Consequently, it constitutes a violation of Article 21 of the Constitution. It is crucial to acknowledge that this particular practice is only enforced onto those who identify as female, so constituting a violation of their sense of self, inherent worth, and ability to make independent choices.

Despite the extensive coverage through reports, articles, interviews, and documentaries that shed light on the plight of Bohra girls and women in India<sup>27</sup>, both within the country and globally, and notwithstanding the submission of online petitions to relevant statutory authorities, ministries, and legislators, the implementation of impactful measures and actions has regrettably been lacking. As a result, those who engage in wrongful acts and violate the law persist in engaging in forbidden and criminal endeavours without facing any consequences. While the absence in relation to dedicated legislation pertaining to FGM can be felt, it is plausible to classify this conduct as a “criminal offense” in the wholesome scheme of existing legal framework of normal criminal laws in the jurisdiction.

### **National Legal Regime on the Practice of FGM**

The legislative framework in India fails to expressly provide for provisions that directly pertain to the practice of FGM. Although a complete prohibition is not in place, the prevailing legal framework within the nation offers safeguards for victims and upholds their rights. FGM is widely recognized as a transgression against human rights and basic liberties under the legal framework of India. Consequently, it is subject to the jurisdiction of Human Rights legislation and is governed by the “Protection of Human Rights Act” of 1993, which underwent further amendments in 2006.

Constitutional remedies and the Courts serve a critical purpose in safeguarding against the infringement of basic rights via FGM. In accordance with the legal framework established in India, any act involving non-medical contact with a woman’s genitalia is deemed to be a violation. This classification is explicitly outlined under the Indian Penal

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<sup>26</sup> (2017) 10 SCC 1.

<sup>27</sup> Harinder Baweja, “India’s Dark Secret - Female Genital Mutilation”, *Hindustan Times*, available at: <https://www.hindustantimes.com/static/fgm-indias-dark-secret/> (last visited on September 21, 2023).

Code<sup>28</sup> of 1860 and the Protection of Children from Sexual Offences Act of 2012<sup>29</sup>(hereinafter referred to as “POCSO”).

The enactment of the POCSO has the purpose of safeguarding children from instances of sexual abuse, harassment, and pornography. Additionally, it aims to provide a judicial process that is conducive to the well-being and comfort of the child during the trial of such crimes. As per the provisions outlined in this legislation, an individual who is below the age of eighteen is legally classified as a child. The Act places significant emphasis on prioritizing the well-being of children, recognizing its crucial role in their comprehensive growth and development. The legislation provides a comprehensive framework for categorizing different types of sexual abuse and establishes stringent penalties that are commensurate with the seriousness of the crime.

FGM may be classified as a violation according to section 3(b) of the POCSO, specifically in regards to the insertion of instruments necessary for the execution of the process. The prescribed penalty for this transgression is delineated in section 4 of the legislation, which mandates a minimum custodial period of seven years, along with the potential imposition of a lifelong incarceration and monetary penalty.

Furthermore, it is noteworthy that FGM is seen to be a transgression according to certain provisions of the Indian Penal Code, including sections 320, 322, 334, 335, 336, 337, 338, and 340, in combination with the Criminal Procedure Code of 1973<sup>30</sup>. The Indian Penal Code functions as a comprehensive criminal code in India, including a wide range of elements pertaining to criminal law. The text is organized into twenty - three chapters and has 511 sections, offering a comprehensive structure for handling various transgressions.

Although there is no special law in India that only addresses FGM, the existing legal framework, which encompasses the “Protection of Human Rights Act”, the POCSO, and the Indian Penal Code, provides safeguards and penalties against this detrim Potential for Legislation on FGM in India: A Case Study of *Sunita Tiwari v. Union of India*<sup>31</sup>

During the 41st session of the Universal Periodic Review (UPR) conducted by the United Nations Human Rights Council in Geneva, the human rights records of fourteen nations, including India, were assessed. The diplomatic mission of Costa Rica, a Central

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<sup>28</sup>Indian Penal Code,1860 (Act 45 of 1860).

<sup>29</sup> The Protection of Children from Sexual Offences, 2012 (Act 32 of 2012), s. 4.

<sup>30</sup>*Supra* note 28 at, ss. 320, 322, 334, 335, 336, 337, 338, 340

<sup>31</sup>*Sunita Tiwari v. Union of India*,WP (C) No. 286/2017.



American country, made a recommendation to the Indian government to criminalize FGM and develop a comprehensive national plan for its eradication.

The definition of FGM provided by the WHO encompasses any practices that include the partial or complete elimination of the external female genitalia, as well as other forms of harm inflicted against the female genital organs, without any medical justification.

Female circumcision, often known as *khatna* or *khafz*, is a prevalent practice observed mostly among the Bohra community in India. This technique entails the ceremonial excision of either a portion or the whole of the prepuce covering the clitoris. Although the Ministry of Woman and Child Development does not possess any documented evidence about this matter, there has been resistance from members of the community.

Sunita Tiwari, a prominent advocate for human rights, initiated a legal action by filing a writ petition challenging the constitutionality of the aforementioned practice. The rationale for this stance was challenged in a counter-affidavit that was submitted. In 2018, the dispute was referred to a bigger five-judge Constitution Bench due to the complex difficulties associated with the critical nature of the topic for the religious group. Although specific questions were not formulated, the Bench was tasked with comprehensively examining the problem from all angles in order to ascertain the legitimacy of “*khatna*”.

#### *The Right to Privacy and Bodily Autonomy*

Firstly, it is essential to examine if the practice of “*khatna*” infringes against the fundamental rights of privacy and physical autonomy for the females subjected to this operation.

The case of *Kharak Singh v. State of Uttar Pradesh*<sup>32</sup> established that the right to life, as outlined in Article 21, encompasses more than simple animal existence and extends to several aspects beyond physical survival. Furthermore, the Court ruled that domiciliary visits conducted by police personnel were deemed illegal. Although the Court did not explicitly provide constitutional authority to the right to privacy, it laid the groundwork for its potential recognition.

The case of *K. S. Puttaswamy v. Union of India*<sup>33</sup> addressed the aforementioned void by establishing the inclusion of the right to privacy as a basic right. In this particular instance, the Supreme Court acknowledged that the responsibility of determining the optimal course of

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<sup>32</sup>AIR 1963 SC 1295.

<sup>33</sup>*Ibid.*

action for one's life is delegated to the person. The primary responsibility of the state is to ensure the preservation of individuals' decision-making capacity, sometimes referred to as autonomy, rather than imposing or controlling such choices.

In the plurality judgment, Justice Chandrachud references the several aspects of privacy, highlighting decisional autonomy as a significant element. The decisional privacy of individuals is manifested via their ability to make informed choices pertaining to their sexual or reproductive conduct, as well as their decisions about personal relationships.

In the case of *Suchita Srivastava v. Chandigarh Administration*<sup>34</sup>, Hon'ble High Court issued a directive for the medical termination of the pregnancy of a woman who was allegedly raped at a government welfare facility. According to the provisions outlined in the Medical Termination of Pregnancy Act of 1971, the need for obtaining permission for abortion necessitated the involvement of an adult woman who did not possess a mental illness. However, it was discovered that the pregnant mother, who expressed her willingness to carry the kid, had characteristics indicative of 'mild to moderate cognitive impairment.' Chief Justice Balakrishnan, in his statement on behalf of the Supreme Court bench, acknowledged that the freedom of women to make decisions about their reproductive choices is undeniably a facet of 'personal liberty' within the framework of Article 21<sup>35</sup> of the Constitution of India. It is of utmost importance to acknowledge and uphold a woman's entitlement to privacy, dignity, and physical autonomy.

The concept of the right to privacy pertains to the acknowledgment of an individual's sovereignty over their own body. Decisional autonomy, on the other hand, entails the use of this right to safeguard against arbitrary impositions of 'legislative' or 'popular morality.' The recognition of this fact has been acknowledged by the Supreme Court in the case of *Navtej Singh Johar v. Union of India*<sup>36</sup>.

The practice of "khatna" is inherently non-consensual and undermines a woman's agency in determining whether she wants to undertake a treatment that has significant consequences. The surgical procedure has been shown to potentially result in issues related to the urinary or vaginal systems. These difficulties are often accompanied by the psychological distress of losing the confidence of a close individual, either due to the decision-making process or the development of post-traumatic stress disorder.

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<sup>34</sup>*Suchita Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1.

<sup>35</sup>The Constitution of India, art. 21.

<sup>36</sup>*Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

A study titled ‘The Clitoral Hood – A Contested Site,’<sup>37</sup> commissioned by We Speak Out & Nari Samata Manch, brought attention to the gravity of the issue. The findings revealed that almost 75 percent of the participants’ daughters in the sampled population had experienced female genital mutilation. The study further revealed that almost one-third of the female participants who undertook the practice of ‘*khafz*’ reported experiencing negative effects on their sexual well-being. Following the experience of FGM, a significant number of individuals have reported experiencing psychological distress, including fear, tension, despair, and diminished self-esteem.

### *Child’s Right to Privacy*

One of the inquiries presented before the Bench pertained to the extent to which a child had comparable entitlements to personal privacy and physical autonomy as an adult, given the many circumstances in which a parent or guardian assumes decision-making authority on behalf of their children. In Hindu families, the customary ritual of *mundan*, which involves shaving a baby’s first hair, is widely observed.

However, it is important to acknowledge that the Indian Constitution does not incorporate any supplementary limitations on the Fundamental Rights based on an individual’s age (whether they are a majority or a minority). Moreover, unlike the practice of *mundan*, female genital mutilation entails an irreversible intervention that has enduring physical and psychological ramifications for the girl, even into her adult life. Additionally, it infringes upon her ability to make decisions autonomously, which, as previously established, is an integral aspect of the rights safeguarded under Article 21.

“*Khatna*”, also known as FGM, is a cultural practice that involves the partial or total removal of the external female genitalia for non-medical reasons.

Given the absence of any specific definition of FGM in Indian legislation or judicial rulings, it becomes necessary to draw upon established international norms and practices in order to address this issue.

To begin with, it has been proven that “*khatna*” encompasses the act of excising the prepuce or the clitoral hood. This would unequivocally align with the inclusive classification of FGM as defined by the WHO under Type 1, which involves the partial or complete

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<sup>37</sup>Lakshmi Anantnarayan, “The Clitoral Hood – a Contested Site - Khafd or Female Genital Mutilation/Cutting (FGM/C) in India” 1 *We Speak Out* 2 (2018).

removal of the clitoral glans and/or the prepuce, as well as Type 4, which encompasses all detrimental procedures performed on the female genitalia such as pricking, piercing, incising, scraping, and cauterizing the genital area.

Moreover, in a recent legal matter involving *R v. A2; R v. KM* and *R v. Vaziri*<sup>38</sup>, the Supreme Court of New Wales rendered a verdict of guilt against a former nurse and a mother with two kids. This case has been asserted as the first prosecution of FGM in Australia. The individuals who were found guilty were members of the Bohra community, and the Court determined that the act of “*khatna*” may be classified as FGM according to the criteria outlined in section 45 of the Crimes Act of 1900<sup>39</sup>.

Following the aforementioned ruling, the Anjuman-e-Burhani Trust of Sydney, which oversees the affairs of the Dawoodi Bohra community in Australia, issued a statement acknowledging that the act of “*khatna*” constitutes a criminal offense as it meets the criteria for FGM. Consequently, the trust advised community members against engaging in this practice.

#### *The Essential Religious Practices Test*

Furthermore, the act of “*khatna*” fails to meet the criteria of an essential religious practice (ERP) due to its pre-Islamic origins and lack of endorsement from any Islamic legal sources. This viewpoint is supported by the Inter-agency statement issued by reputable United Nations organizations such as the WHO, the United Nations Population Fund (UNFPA), and the United Nations Children’s Fund (UNICEF), among others. Similar results have been reached in previous research conducted by the WHO. Furthermore, the Bohra community residing abroad has also been forbidden from engaging in this practice, despite their inclusion within the religious group.

The potential categorization of a particular practice as an ERP notwithstanding, it is important to note that the exercise of the right to freedom of religion, as enshrined in article 25, is subject to certain restrictions imposed by the Constitution. These limitations include considerations of public order, health, morality, and other laws outlined in Part III of the Constitution. In the case of *Indian Young Lawyers Association v. State of Kerala*<sup>40</sup>, the Supreme Court observed that the interpretation of ‘morality’ in relation to articles 25 and 26

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<sup>38</sup> *R v. A2; R v. KM; R v. Vaziri*, [2018] NSWCCA 174.

<sup>39</sup> Crimes Act 1900, s. 45.

<sup>40</sup> *Indian Young Lawyers Association v. State of Kerala*, (2017) 10 SCC 689.

should be based on ‘Constitutional morality.’ Furthermore, the Court emphasized the need to assess the presence of societal discrimination within the framework of this Constitutional morality. In his concurring opinion in the Sabrimala verdict, Chief Justice Chandrachud made the observation that Constitutional morality should possess a lasting worth that remains unaffected by the transient inclinations of different eras and periods. Once the aforementioned principles of human liberty, equality, fraternity, and justice are acknowledged, it follows that the freedom to practice religion and the autonomy to govern the affairs of a religious group must be subordinate to and complies with these fundamental principles of Constitutional morality.

Therefore, it might be inferred that the reasons presented by the respondents fail to withstand Constitutional scrutiny.

*i. Existing Legal Framework for FGM and the way forward*

It is noteworthy that despite the prevalence of FGM in India, there is a lack of comprehensive legislation addressing this issue. However, India has taken the initiative to urge that nations such as Guinea, Mali, and Gambia establish legal frameworks to outlaw the practice of FGM.

FGM has the potential to be subject to legal consequences under the current legal structure of India. Specifically, sections 324 and 326 of the Indian Penal Code provide provisions for the criminalization of acts involving the intentional infliction of harm and severe harm, respectively. The criminalization of penetrative sexual assault on children is also included under section 3 of the POCSO<sup>41</sup>. The act of introducing any item into the vaginal cavity of a minor female would be considered a kind of penetrative sexual assault.

However, given the inadequacy of existing law restrictions in effectively addressing the issue, it is crucial to develop a comprehensive plan to address FGM. Several African and European nations have taken measures to criminalize FGM either by integrating it into their existing penal code provisions or by enacting specific legislation to combat this practice. Given India’s social, moral, and international responsibilities, it is imperative for the Indian government to address this abhorrent practice and make concerted efforts to eradicate FGM.

The Netherlands serves as a valuable source of inspiration due to its successful cooperation among many stakeholders, including medical professionals, educators, law enforcement, migrant groups, and child abuse reporting centres. Additionally, the

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<sup>41</sup>*Supra* note 29, s.3.

decentralization of efforts to combat child abuse has been crucial in achieving positive outcomes. In a similar vein, it is worth noting that in the year 2019, a significant number exceeding 175,000 girls were effectively shielded from the practice of FGM in Burkina Faso. This commendable outcome was achieved via the establishment of community child protection groups, which played a pivotal role in identifying girls who were at risk of experiencing FGM. These groups further facilitated the formation of adolescent clubs, so providing a platform for organizing and supporting these vulnerable girls. This demonstrates the significance of community interaction in this process.

The development of legislation in India is crucial in order to establish a complete definition of FGM, aligning with the WHO's definition. This law should also include measures that impose penalties on medical practitioners who engage in the practice of female circumcision. Additionally, it is imperative to legally require the provision of medical, educational, and psycho-social assistance for the victims of FGM.

## **V Conclusion and Suggestions**

FGM is a blatant infringement of the fundamental human rights of women. The aforementioned action infringes against the fundamental rights of women and exhibits characteristics of discrimination, violence, illegality, and cruelty. Women's rights include legal, political, and social entitlements that are on par with those granted to men. The principles of human rights extend to include women as well. The UDHR acknowledges a multitude of such rights.

Different legal systems across the world exhibit diverse perspectives on the aforementioned behaviour. Several legal systems have enacted legislation that particularly addresses the prevention and protection against female genital mutilation, as well as the rehabilitation of its victims. In instances when legal systems exhibit deficiencies in specific legislation, generic legislation serves as a protective barrier. Notwithstanding the aforementioned legal constraints, the task of promoting awareness and translating it into tangible actions has consistently proven to be challenging. Consequently, the persistence of this practice endures, despite the considerable efforts undertaken by the United Nations, non-governmental organizations, advocates, legal professionals, and many other stakeholders. The Court strongly condemns this practice since it is seen as a breach of women's rights, including their right to life and dignity, as recognized by both international and national legal frameworks. The practice of female genital mutilation should be legally prohibited, and

comprehensive measures should be implemented to protect and uphold these fundamental rights.

In the last thirty years, there has been a noticeable decrease in the prevalence of FGM, but progress has been unequal across different countries and regions. Despite a decline in the prevalence of FGM in several countries, this harmful practice continues to persist in regions where it remains most widespread. In countries where statistical data is accessible, a significant proportion of women and girls hold the belief that the behaviour in question should be discontinued. The commemoration of the International Day of Zero Tolerance for FGM takes place annually on the 6th of February. The United Nations Secretary-General has said that the achievement of sustainable development necessitates the complete realization of human rights for women and girls.

According to the 2030 Agenda for Sustainable Development, it is projected that this particular practice would be eliminated by the year 2030. According to UNICEF, it is projected that around 68 million girls may be subjected to the aforementioned practice during the time frame of 2015 to 2030. The countries of Somalia, Guinea, Djibouti, and Egypt had the greatest prevalence rates among women aged fifteen to forty - nine, with percentages of 98, 97, and 93, respectively.

FGM is a cultural practice that is performed among the Dawoodi Bohra community. In the recent 2019 Sabrimala verdict, the former Chief Justice Ranjan Gogoi made a recommendation to refer the case to a seven-judge bench and have it heard in conjunction with other cases pertaining to women's right to pray. This recommendation was made due to the significance of the issue at hand, which involves the Constitutional Courts' authority to deliberate on the necessity or integral nature of specific religious practices.

The following recommendations are proposed:

- There exists a need for the adoption of a comprehensive, community-driven approach that involves the collaboration of diverse legislative and enforcement entities in order to prohibit the practice of FGM. A comprehensive and inclusive approach that encompasses prevention, protection, punishment, and rehabilitation can be employed to establish and strengthen systems and capabilities, particularly within the realms of social, legal, gender, health, and judicial personnel development.
- Integration of a comprehensive and unbiased strategy that considers administrative, civil, criminal, and penal legislation. Gender mainstreaming or integration may be

used to assess the impact of different laws, policies, and programs on varied cohorts of both men and women. Efforts must be undertaken to implement requisite measures in order to promote the progression of gender equality.

- The government should exert efforts to deter the acceptance of the behaviour based on traditions or customs. The fundamental nature of customary law has undergone transformation in order to align with contemporary societal developments. The immutability of customs has lately been subject to criticism on many occasions. What was considered vital for societal functioning and had significance in previous eras may now lack relevance and may be regarded redundant. Not all traditions may be considered as effective or justifiable legal principles.
- The government, in its role as the guardian of society, has a responsibility to address practices such as FGM that are contrary to public policy or infringe upon individual rights. The responsibility of the government is founded upon the principles outlined in international human rights treaties. The exercise of due diligence in the prevention, investigation, and punishment of human rights violations, committed by both government entities and private persons, is a widely accepted legal standard for assessing governmental conduct or lack thereof. In order to enhance the application of legal principles and safeguard the rights and well-being of women inside non-public domains, it is imperative to take measures aimed at nullifying legislation that explicitly exhibits gender-based bias against women.
- It is essential for the government to provide assistance and supervision for structured research focused on systematic data collection on the prevalence, underlying factors, and consequences of the phenomenon. This would provide efficient monitoring and protection strategies. It is imperative for the government to enact requisite policies aimed at fostering empowerment and education among females. The approach would foster more self-reliance and awareness of their rights among women, empowering them to withstand and counteract its effects. The advancement of women's rights might be facilitated by the incorporation of women into the legislative and judicial institutions.
- In order to safeguard the well-being of women, it is imperative to enhance public consciousness of the practice via the implementation of campaigns, outreach activities, and sensitization efforts. There is a compelling need to implement measures



aimed at enhancing women's access to the judicial system and other relevant institutions that may provide assistance.

- It is imperative that required training and sensitization on human rights instruments, with a specific focus on domestic laws, policies, and programs, be provided to various stakeholders including the judiciary, health care professionals, social service providers, teachers, and religious, customary, community, and tribal leaders. This includes the provision of training programs for various legal professionals, such as police officers, prosecutors, defence lawyers, and family law practitioners. The Court should prioritize the fair, informed, and unbiased process of judicial decision-making, while also implementing rigorous monitoring. Strengthening the rule of law via governmental allocation of funds towards projects aimed at promoting women's access to justice. This measure has the potential to restore survivors' confidence in the justice system.
- Professional organizations in the medical field, such as medical associations and nursing councils, including traditional circumcisers, serve as illustrative instances of organisations that need to enhance knowledge and include ethical values within the realm of medical education and practice. The provision of health education is crucial in the eradication of the aforementioned practice, since it is incumbent upon society to ensure the availability and accessibility of healthcare services.