

## FEMALE GENITAL MUTILATION – THE SURREPTITIOUS CLOSET OF INDIA

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**Abstract:** *We hold these truths to be self-evident that all men and women are created equal- Elizabeth Cady Stanton.* Some great words by great minds often thought about, many a times stated and fought for since the existence of Adam and Eve. From then to now we have come a long way but have we really? Time and change has brought about progress but are we still fighting some demons hidden in dark closets. We have heard some words ringing to our ears in a while – Feminism. What is it that first comes to our mind when we hear this word? Unlike popular belief feminism is not anti-man, it is not a mere fashionable theory we study and raise slogans for. Then what is that we are talking about. Feminism when understood in the right sense of the words is not always about always giving special rights to women. It is all about treating a woman as you would treat a man or let us say treating all humans as equal. It is the act of not discriminating against a woman because of her gender and avoiding stereotyping gender roles in society. The law of the land and judicial interpretation has vehemently in all these years established the Right to Life (Article 21 of the Constitution of India), in a magnificent way. The right to live and to live with good health, security and dignity are manifestations to this this right to life, irrespective of gender among other things. The body and mind can be destroyed by acts that than could be physical or mental or both. This act of destruction or the intention per se broadly constitutes violence. This is a dynamic concept that has changed in form and meaning over the years. When we use the word violence against women in particular we mean those cumulative acts that are directed in particular towards women, the gender of the victim being the prime motive for the act. Among the obvious and several forms; dusted beneath the carpets in the name of customary practices, there exist certain acts of violence against women, the lesser known evils like *Female genital mutilation (FGM)*. The aim and objective of this piece of work is to understand the basis concept of FGM, the geographical distribution, physiology, methods and techniques, the practice and consequences, the drawbacks, factors and reasoning's on why we consider FGM as an act of violence and what should be done towards curbing and eventually working towards putting such practices to an end. The Research Methodology followed is by far Empirical in nature.

**Keywords:** Female Genital Mutilation, Feminism, Violence against women.

**Introduction:** We hold these truths to be self-evident that all men and women are created equal [1]. Some great words by great minds often thought about, many a times stated and fought for since the existence of Adam and Eve. From then to now we have come a long way but have we really? Time and change has brought about progress but are we still fighting some demons hidden in dark closets. We have heard some words ringing to our ears in a while – Feminism. What is it that first comes to our mind when we hear this word? Unlike popular belief feminism is not anti-man, it is not a mere fashionable theory we study and raise slogans for. Then what is that we are talking about. Feminism when understood in the right sense of the words is not always about always about giving special rights to women. It is all about treating a woman as you would treat a man or treating all humans as equal. It is the act of not discriminating against a woman because of her gender and avoiding stereotyping gender roles in society. The law of the land and judicial interpretation has vehemently in all these years established the Right to Life in a magnificent way [2]. The right to live and to live with good health, security and dignity are manifestations to this this right to life, irrespective of gender among other things. The

body and mind can be destroyed by acts that than could be physical or mental or both. This act of destruction or the intention per se broadly constitutes violence. This is a dynamic concept that has changed in form and meaning over the years. Though it is categorically difficult to define violence, the World Health Organization has broadly defined it as "the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation"[3]. When we use the word violence against women in particular we mean those cumulative acts that are directed in particular towards a woman, the gender of the victim being the prime motive for the act. The UN Declaration on the Elimination of Violence against Women states that "violence against women is a manifestation of historically unequal power relations between men and women" and that "violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men [4]". "Violence against women can fit into several broad categories. These include violence carried out by "individuals" as well as "states". Some

of the forms of violence perpetrated by individuals are rape; domestic violence; sexual harassment; coercive use of contraceptives; female infanticide; prenatal sex selection; obstetric violence and mob violence; as well as harmful customary or traditional practices such as honor killings, dowry violence, female genital mutilation, marriage by abduction and forced marriage. Some forms of violence are perpetrated or condoned by the state such as war rape; sexual violence and sexual slavery during conflict; forced sterilization; forced abortion; violence by the police and authoritative personnel; stoning and flogging. Many forms of violence against woman, such as trafficking in women and forced prostitution are often perpetrated by organized criminal networks [5]". The above in form and content covers most acts that can be broadly classified as an act of violence against women. Some of them known to us more commonly like domestic violence, sexual harassment and a few that probably dusted beneath the carpets in the name of customary practices; the lesser known evils like Female genital mutilation (FGM).

**What is Female genital mutilation (FGM) and where would you find such practices on the world map?:** Female genital mutilation also synonymously referred to as female circumcision can broadly be understood as the customary intentional removal of partial or complete external female genitalia for non-medical reasons. Unlike popular belief it is not a practice which finds its roots in religion, rather cultural and customary practices. It is a matter of global concern. The origin of the practice is not known with certainty but Gerry Mackie has suggested that infibulation which is one type of FGM originated in the Meroite civilization prior to the rise of Islam. The practice is most common in the western, eastern, and north-eastern regions of Africa, in some countries in Middle East and Asia, including the migrants to these areas. Immigration resulted in the practice to spread to Australia, New Zealand, Europe, North America and Scandinavia, all of which outlawed it entirely or restricted it to consenting adults. Sweden outlawed it in 1982. Belgium, Britain, France and the Netherlands, introduced new laws to fight the same. In India and Pakistan, it is practiced by members of the Dawoodi Bohra community.

**The physiology of FGM- Methods and Techniques:** FGM essentially includes the removal of partial or total external female genitalia for non-medical purposes. The practice is mostly carried out by traditional circumcisers also called as midwives on young girls between infancy and adolescence (around 15 years) and sometimes on adult women, usually with a razor or a scissor as tool. With changing trends and increase in consequential complexities, in exceptional cases health professionals are also

involved in the process; the preference though in majority of cases being the traditional circumcisers. The Female genital mutilation can be categorically classified into four major categories.

1. The partial or total removal of the clitoris [6] and in exceptional cases, only the prepuce [7] also known as Clitoridectomy.
2. The partial or total removal of the clitoris and the labia minora [8] with or without excision of the labia majora [9] known as Excision.
3. The narrowing of the vaginal opening through the creation of a covering seal also known as infibulation.[10]
4. All other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incision, scraping and cauterizing the female genital area.

**Practice and Consequences: The Pinch of Skin Reality:** Female Genital Mutilation is a global threat.

The practice though finds its roots in the principles of inequality between sexes is cradled in the name of culture and customary practices and promoted in the name of a good and pious life. The reasons sometimes vary from region to region. FGM being a socio cultural norm, the social pressure to adhere to acts of peer groups and the fear of social rejection serve as strong motivation to continue this practice. The practice is considered as a necessary part of raising a girl child and preparing her to play the role of a good woman in adulthood.

The practice lies among several reasons firstly in the belief that it would ensure the virginity of the woman [11]. The act is believed to curb a woman's libido [12] hence ensuring both maintenance of chastity and prevention of infidelity on the institution of marriage. The practice is also believed to increase sexual pleasure for a man and increase chances of fertility hence fulfilling other demands of matrimony by way of procreation and keeping her husband happy; hence the touchstone of what is accepted sexual behavior of a woman pre and post her marriage in society. The practice would ensure the daughter is considered a better candidate or rather more worthy of being married to when looking for a groom. Apart from the social implications there is also significant economic aspects involve. The parents of such girls are burdened less with demands for dowry. Another vague belief was that such practice would prevent the clitoris from growing long like a male genital. The practice is encouraged in the name of cultural heritage and as essential to the stepping into womanhood. The female genitalia considered as unappealing to the eye and unclean, the practice claims to be beneficial for hygiene and aesthetic purposes.

The pinch of skin [13] reality however is different. On most occasions the procedure is carried out by use of

unsterilized crude tools by traditional circumcisers with no specialized knowledge. The procedure has no proven health benefits for women; rather it interferes with the natural hormonal balances and physiology of a female body. The immediate complications include severe pain, excessive bleeding<sup>[14]</sup> genital tissue swelling urinary tract and pelvic infections, vaginal discharges and infection, cysts, sexual dysfunctions, severe pregnancy complications and sexual problems. The impact is not alone restricted to the physical aspects, the consequences and also psychological and emotional in nature. Depression, anxiety, post-traumatic stress disorder and low self-esteem, are some common ailments.

Having understood the nature and realities of FGM, we need to understand what happens in our part of the world. India's Dawoodi Bohra community has been practicing FGM in a clandestine manner since ages. The Bohra community includes immigrants to India from Yemen and is mostly a part of the Shia Muslims. Predominantly settled in western India, and smaller groups in other countries, the population strength is about one million. The Bohra community FGM practice involves the partial or complete removal of the clitoris or clitoral hood.<sup>[15]</sup> The Bohra community is controlled and regulated by the religious head, the Syedna. They are required to take an oath of allegiance to the Syedna,<sup>[16]</sup> and must obtain his permission and approval for religious, personal and professional decisions. In a trial of two Bohra Girls in Australia, the mother of the girls, the midwife and a Bohra priest in Australia were sentenced to 15 months in prison in the year 2016. In the same year in a sermon in Bombay, the Syedna instructed the community to continue with the practice FGM in response to the same arrests. The Australian authorities had arrested a reputed senior Bohra cleric for attempting to distort investigations and for directing 'members of the community (in Australia) to give false accounts to the police. Fearing a similar crackdown, the Bohra clergy in the US, UK and Europe told their communities to comply with the laws of the land. <sup>[17]</sup>

The above account clearly establishes a few facts. The practice of FGM clearly has harmful effect on the physical and mental health of a woman. The practice is definitely regarded as an act against law and detrimental to a female life and state looks down upon it. At the same time it has been actively practiced under hidden hoods over many years across the globe.

**The legal meshwork on FGM- Is it really an act of Violence against women?:** FGM practice has been established across the globe as a violation of the human rights of girls and women <sup>[18]</sup>. Fed on the principles of inequality the act qualifies as a categorical discrimination based on sex Explicit

violation of child rights, it clearly affects a person's rights to health, security and physical integrity, the right to life. By any scope of interpretation or by far religious or cultural cry, we cannot overlook the fact that it on the very face of things the act lacks the consent of the person involved and causes irreparable harm to the body and mind. A practice that affects the mind and body for till the woman continues to live. There is no scientific basis of this practice to prove that it may be of any benefit to a female in her life time, which if anyway proven in the years to come cannot rule out the importance of consent and proper medical procedures to carry it out in exceptional cases rather than a compulsory act.

International bodies and countries have taken several steps to outlaw and condemn the practice of FGM by specific statutes and general criminal laws of their countries since the 1970s. <sup>[19]</sup> As a result it has been outlawed or restricted in most of the countries, even though not very effectively. Article 25 of our Constitution allows citizens to preach, practice and profess religious beliefs. This however does not give a buffer or excuse to practices that go against public order, health and morality. Categorically FGM is one such practice and needs to be banned totally.<sup>[20]</sup> The law and public policies in India clearly have several laws to protect the body, property and also against cruelty and violence against women including sexual offences. Also we clearly recognize the importance of Human Rights and protection of rights of children including sexual offences. A clear reflection of this thought process is clearly evident in our Constitution. India does not have a specific statute on FGM practices or laws prohibiting it in particular. It is important for India to have an anti-FGM law and to enforce its implementation <sup>[21]</sup>.

**Recommendations and Conclusions:** Every problem in this world however difficult can be reasonably solved if suitable and sustained measures are taken in the correct direction. Every country has its own social and cultural conditions, stages of economic development and public policy and legal systems. Hence a straight-jacket formula or law cannot work for every country. Irrespective of the differences, there are certain factors that would help us fight the war against Female Genital Mutilation. Without a pinch of doubt FGM constitutes a gross act of violence that affects the physical and mental health of the girls and women. What essentially could be the reasons in the Indian context? The lack of awareness, education, certain socio-cultural pressures, trafficking and the never ending mentality of treating women as chattel continues to dominate the list of reasons. The constant thought process of treating a girl child as a burden and marriage and dowry being the dreaded wolf. The victims that manage to fight all odds and survive are disheartened girls with lack of

education and resources and the mental strength to fight against the system and their own near and dear ones. The practice takes place in closed doors and proper witnesses and recordings always remain a drawback. Education of the girl child continues to be the first solution to such practices. Educating the child and the parents would ensure that they do not succumb to socio cultural pressures and give in to such horrendous practices. The burden of policing FGM hence should be not on survivors. Investigation and prosecution should take complaints seriously. Specialist support services, including remedial medical and psychological support should be available to the victims. The assumption cannot be conclusive as to how many people are really parties to the practice where the accused could possibly be one or both the parents in addition to the person who has performed the circumcision. The factors dominating the practice are interlocking and mutually reinforcing. There cannot be an isolated understanding of issues that involve controversy and taboo. We need to sensitize both the society and law

enforcing agencies. Laws should be framed with strong detrimental effects. Preventive Orders prohibiting such practices should be passed time and again. The local administration should be involved and work towards setting up of awareness and rescue camps.

No wall was built in a day and no wall can be crossed in a day too. Violence against women has found its tentacles deep in our lives. We have come a long way with several positive changes towards the lives of women and we still have a long way to go. What we need to know is that women are as human and as important as the other gender and they have a right to speak for themselves. Women are capable of doing for themselves what any other human can. All we need is the will and intention and slowly and steadily we will cross the wall. As Dilima Rouseff says "I hope the fathers and mothers of little girls look at them and say, yes women can." [21]. With the hope that one day we treat a girl child not as a burden but just a child let us continue to dream and work towards our dreams.

## References:

1. Elizabeth Cady Stanton
2. Article 21 of the Constitution of India.
3. WHO definition
4. UN Declaration on the Elimination of Violence against Women
5. Prügl, E "Violence against Women, Gender and International Affairs Class 2013. Lecture" conducted from The Graduate Institute of International and Development Studies (IHEID), Geneva, Switzerland. (November 25, 2013);
6. Small, sensitive and erectile part of the female genitalia.
7. Fold of skin surrounding the clitoris.
8. 8 The inner folds of the vulva.
9. The outer folds of skin of the vulva
10. The seal is formed by cutting and repositioning the labia minora or labia majora or sometimes through stitching, with or without removal of the clitoris. Deinfibulation refers to the practice of cutting open the sealed vaginal opening in a woman who has been infibulated, which is often necessary for improving health and well-being as well as to allow intercourse or to facilitate childbirth.
11. Virginity is the state of a person who has never engaged in sexual intercourse.
12. Sexual urges
13. Documentary by Priyanka Goswami on fight against FGM.
14. Haemorrhage.
15. The clitoris is referred to as the 'Haram ki boti' or 'sinful piece of flesh' a recognition of its biological role in a women's orgasms and libido.
16. Misaq
17. This was probably just lip-service for it is understood that the Syedna, whose seat is in Bombay, is the ultimate authority for Bohras the world over. In his public sermon the Syedna emphasised that 'the act has to happen...Stay firm...Even [for] the big sovereign state, we are not prepared to understand.
18. The UN children's agency UNICEF estimates that worldwide around 200 million girls have undergone FGM, which often causes serious physical and psychological problems. but campaigners say this is an underestimate because it is only based on data from 27 African countries along with Yemen, Iraqi Kurdistan and Indonesia.
19. The Anti-FGM group Orchid Project lists 10 Asian countries and nine Middle Eastern countries where there is evidence that FGM exists including Pakistan, Jordan, Kuwait, Oman, Malaysia and Thailand World leaders have pledged to eliminate FGM by 2030 under the U.N. global development goals agreed in 2015.
20. In 2015 a group of women launched 'Sahiyo' meaning 'female friend,' an online platform that aims to create a safe, women-supported space for Bohra FGM survivors to share their personal stories and to lobby support via a petition for a law to ban FGM in India. As there is no law in India banning FGM, a survey by Sahiyo indicates

that the ratio of Bohra girls who have been subjected to FGM could be as high as 80 per cent.

21. A public petition to the Indian government by the advocacy group Speak Out on FGM to outlaw FGM in India has garnered more than 80,000

signatures. The group's founder Masooma Rana, a Bohra FGM survivor, who has also been pushing for the UN to recognize FGM in India, has launched a second petition to the UN

22. First Women President of Brazil.

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