

**DE JURE NEXUS LAW JOURNAL**

Author:

Kritanjali Purkayastha

Assam University, Silchar.

**CUTTING THE GENITALS OF HUMAN BEING IS A VIOLATION TO  
HUMAN RIGHTS**

**Abstract**

*Women are affected by violence in many ways and female genital mutilation is one of them. It is said to be a very painful process which is done without the consent of the woman herself. It is carried out between infants as well as young girls. FGM is practiced all over the world and about 200 million women have undergone FGM and 3 million girls are risking their lives in a year. It is predominant in 30 countries but mostly in Somalia, Guinea, Djibouti, Mali, and Sierra Leone. It is still going on and if it continues then 68 million girls will be affected until 2030. International Zero Tolerance Day for Female Genital Mutilation was started by United Nations in the year 2003 and it is celebrated every year on 6<sup>th</sup> February. It was started to spread awareness to eradicate female genital mutilation. This year as COVID-19 came into force; the act of FGM increased and keeping this viewpoint the UNFPA and UNICEF during the programme of zero tolerance, launched the theme “No Time For Global Inaction, Unite, Fund, And Act to End Female Genital Mutilation.”<sup>1</sup>*

*Not just leading towards woman, man also suffers the barbaric happenings of genital mutilation but it is considered to be not as much serious as female genital mutilation. MGM can once be ordered by court but FGM is a criminal offence. <sup>2</sup>MGM is said to have an old influences of Jewish and Islam. According to WHO, 30% percent men in the world are said be gone through such process and many lost their lives too. FGM is said to done due to non-*

---

<sup>1</sup> International Day of Zero Tolerance for Female Genital Mutilation – Ending Female Genital Mutilation by 2030 : <https://www.un.org/en/observances/female-genital-mutilation->

<sup>2</sup> Male and Female Genital Cutting – Between the Best Interest of The Child and Genital Mutilation : <https://academic.oup.com/ojls/article-abstract/40/3/508/5862902?redirectedFrom=fulltext>

*medical reasons but MGM includes medical reason as well as religious and cultural aspect. But still FGM and MGM are legally as well as morally differentiated but both are violation to Human Rights. Many FGM supporters are arguing on a matter that if the law had protected girls and boys equally, it might get some limelight for the elimination of non-consensual practice of MGM.*

### **Keywords**

*Human Rights Violation, Female Genital Mutilation, Male Genital Mutilation, Liberty, Gender Discrimination, Women Rights, Male Rights.*

### **Introduction**

The world is a big place and it consists of diverse communities. Different communities are clubbed together with different religions, customs, rituals, age-old practices and so on. People all around the globe involve themselves into such customary practices, out of which they themselves fail to, judge the consequences. Surprisingly there are such practices going around in some of the places in the world which is very hard to gulp for a normal person if they feel such process. We are very well known to some of the heinous crimes such as rape, murder, etc which completely turmoil's the mental state of the victim and their kith and kin. However besides this, there are such other practices which are hardly or mostly not known to public but it's going around before our eyes. Such practices are treated with scepticism as to not considering wholly as a crime. The pain and cruelty behind such practices screams loudly for a culmination.

In this article, I am going to talk about the practice of cutting genitals of human being which is a very old practice and which is performed mostly for non-medical reasons. This practice is mostly focused towards feminine approach but in contemporary period such practices is considered to be gender neutral and is not only a prime matter of sexism. I will be discussing about how such practices are considered to be the violation of Human Rights and how people around the world are expressing their urge to stop such practices.

### **What are such practices?**

Such practices are known as Female Genital Mutilation and Male Circumcision (which should be called what it is: Male Genital Mutilation). It is such a procedure that greatly affects the mental, physical and sexual health of both the genders. Usually, it is done towards

infants or children's in most parts of the world, who are not even well informed enough to make decision and able to give consent to the procedure. All they can do is to bear the pain.

Female Genital Mutilation also known as FGM is a process of cutting or removing external female Genitalia for non-medical or cultural reasons. It is processed with knives, scissors, razor blades, pieces of glasses etc and it is mostly performed by elder people or barbers, women birth attendants and some other members of the community. Such procedure causes great harm and severe health complications but had no health or medical benefits. This can lead to certain immediate complications such as urinary infection, haemorrhage, ulcer in the genital area, vaginal tissue injury, and many others which are difficult to explain. Such issues can become severe enough to cause death. Long term affects can result to complications in child birth, risks of HIV, sexual dysfunction and if it is infibulations then it obstructs the normal flow of menstruation<sup>3</sup>. It is said that after performing infibulations, the legs of the girls are held together for 10 to 14 days preventing them from moving so that the tissue forms a scar. There happens to be no use of anaesthetic items or antiseptics during such procedure. Seems like an inhuman act isn't it?

Male genital mutilation is a similar process of removing or modification of external Genitalia which involves whole or partial or genital injury or injury to other male organs. This process can involve risks like urethral damage, penile amputation, haemorrhaging, and lacerations. It is mostly done to babies for religious reasons than for medical reasons. Medical and health experts referred to such risks happening due to certain tools involved during circumcision.

### **What are the reasons behind such practices?**

This process is mainly practiced to represent the control of society over women. It primarily focuses on deep-rooted age old practices of religious beliefs but mostly it harms the essence of gender equality. Women, girls, infants are mostly forced to undergo FGM because of a belief that carries out among stereotyping old age societies that it is necessary to prepare a girl for her adulthood and marriage. Therefore girls of such societies against their desire undergo such acts to avoid the ink of stigma and rejections that will be stamped to them from the communities if they avoid the procedure. As a result of societal pressure, a girl gradually accepts the bizarre reality and places them as a part of such culture. Believe revolves around such community that women are pure and feminine only when they will go through such

---

<sup>3</sup> Female Genital Mutilation (FGM) Frequently Asked Questions available at : <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions>

practices and men will only marry such women who have attained woman hood only after marriage. This clearly points towards their societal view of looking into girl's virginity that is it's not in the hands of a girl to remain untouched or not. In such situations, the body is of a woman but the decision depends upon society's local authority or any circumcisers, elder women and hardly any medical personnel<sup>4</sup>.

In simple perspective, there's no value or necessity to take the consent of the woman while controlling her sexuality. It is made to believe that FGM is performed due to social, hygienic, cultural and various other reasons and that is why it is auspicious to the girl and their community.

Since it is widely practiced, both men and women accept such practices without any question and even if certain families doesn't support such practice, they out of peer pressure involves into the process to avoid ostracism and harassment.

Regarding the process of cutting of male Genetalia, there has been going a cold debate over such issue. People all over the world are engrossed so much to speak out and pin point about FGM, that they overlooked the issue of male's genital ablation. Slogans over gender inequality related to cutting of genitals of female is said to capture the limelight but essence of equal gender perspective must be focused too. It is not well explained as to why male circumcision takes place. It is done to infants and other age groups ranging from 4 to 16 and reason behind doing this is to avoid a man involving in polygamy and extramarital sexual affair. <sup>5</sup> Usually the boys are not informed properly on what the procedure entails and they are forced into it by their parents and elders. It is performed due to psychosexual reasons; sociological reasons such identifying the boys entering manhood by performing such acts. It is said to be done due to hygiene reasons, I mean who can say that's a valid reason? It includes religious circumstances saying that it is demanding mostly in Islam and Jews. Babies are forced to undergo such process because of a mythical belief the infants don't feel pain and it will protect them against diseases which is simply barbaric.<sup>6</sup> Some medical reasons are said to involve such as penis cancer whose rate is absolutely 1 out thousands, phimosis, etc.

### **How such process is a violation to Human Rights and What are the steps taken?**

<sup>4</sup> Interagency Statement on Eliminating FGM :

[https://www.un.org/womenwatch/daw/csw/csw52/statements\\_missions/Interagency\\_Statement\\_on\\_Eliminating\\_FGM.pdf](https://www.un.org/womenwatch/daw/csw/csw52/statements_missions/Interagency_Statement_on_Eliminating_FGM.pdf)

<sup>5</sup> Male Genital Mutilation – An Adaptation to sexual conflict :

<https://www.sciencedirect.com/science/article/abs/pii/S1090513807001341>

<sup>6</sup> Male Genital Mutilation : <https://www.wikigender.org/wiki/male-genital-mutilation-mgm/>

FGM violates series of human rights and life principles which includes discrimination on the basis of sex, impact on physical and mental health of a woman, equality, torturing and treating inhumanly. FGM restricts all the freedoms and hampers the basic standard of health as it lacks medical procedure which can lead to severe consequences of death. Prohibition to their enjoyment of liberty strictly leads to violation of Human Rights. FGM is internationally recognized as a violation of Human Rights of Women and girls. It is defined as a form of gender discrimination and violence against girls in a 2008 UN interagency statement. Several Human Rights which are defined under The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Universal Declaration of Human Rights and The Convention on the Rights of Child are violated by such practices. UDHR in its Article 3 states that each and everyone have the right to life, liberty, security of a person, torture and inhuman treatment. Since such practices are performed, females in many countries have no control over their liberty which is a violation to their human rights.

Since its not only subjected to grown up adult women but to infants who were pushed into such act, The World Health Organisation together with United Nations Children's Fund and United Nations Population Fund issued a declaration against FGM. Together in 1997, a lot of works have been done to change the process such as involving international voices, declaring resolutions. Political support was connected and legal works were framed again by issuing law in 26 countries in Africa and Middle-East, along with 33 more countries including migrant population against Female genital Mutilation. Through revised laws and awareness, FGM gradually decreased and Communities involving such practices started supporting the laws.<sup>7</sup>

In upcoming years lots of changes took place which eliminated the progress of FGM. I am briefly mentioning some treaties and conventions involving and protecting the rights of women against the violation -

- . In the year 1951 and 1966, The Convention related to the status of refugees and The International Covenants on Civil and Political Rights and on Economic , Social and Cultural Rights, stated about refugees rights who were undergone the process of FGM and about discrimination on the basis of sex and right to mental and physical health. <sup>8</sup>

---

<sup>7</sup> Female Genital Mutilation : <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>

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

- . In the year 1979, 1984 and 1989 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of all forms of Discrimination against Women and Convention on the Rights of child postulated about the rights of women, children and their physical and mental health degradation due to FGM.
- . Several other regional treaties from Africa and European convention mentioned about rights, welfare and health of women and children which also included practice of FGM.
- WHO issued a declaration on the scraping of FGM along with 9 other countries and also issued certain strategies to refrain health workers from involving in FGM.
- The United Nations General Assembly adopted certain settlements on the elimination of practicing FGM and with certain collaborations with UNICEF; they also launched certain guidelines on health complications related to FGM.
- Several other documents and declarations such as Beijing Declaration and Platform for Action of the Fourth World Conference on Women, The Human Rights Council, The Girl Child Resolution adopted by UN general Assembly, they all called to share global efforts to eliminate FGM and other practices of child forced marriage which is said to be the violation of rights of girl child and form of discrimination.

Male Genital Mutilation is no less than FGM. It should be considered as a violation of Human Rights. It impacts the liberty and freedom to give consent in such practices as well as it hampers the mental and physical health of a male. MGM should also be given equal emphasis just as FGM. Despite all of this in most countries including the USA, the laws eliminating MGM is almost entirely unregulated. Compared to female perspective, male voices are stucked behind all those howling.

It is generally fixated that MGM is performed wholly with adults consent and is not degrading anything. It is said to be legal in England and Unites States too<sup>9</sup>, but imagine if genital mutilation is done to a girl then I don't think the laws would be the same. Many countries framed and revised law regarding FGM, yet not a single country on the planet has attempted to curb the practice of MGM or let alone criminalize it. Since it is practiced with infants too, regulation is needed in order to protection for the rights that children have over their own body. It is said to be a child rights issue as laws in US regarding the protection of

---

<sup>9</sup> [https://www.academia.edu/9404847/Sex\\_and\\_circumcision](https://www.academia.edu/9404847/Sex_and_circumcision) - By Brian Earp

children caused the anti-FGM law to be called unconstitutional.<sup>10</sup> Human Rights are universal principles then why questioning the universality of Human Rights in case of MGM. Since it is a violation to human rights, therefore equal emphasis must be given to it. Policy makers and international commissions should come forward and give a legal statement to curb MGM.

According to my viewpoint, to stop such practices along with laws and regulations, it is necessary to educate the communities who are supporting and practicing genital mutilation. It is important to generate knowledge about the violation of human rights involving such process not only to the communities but to every common man. Most importantly health sectors all over the world should strengthen their response towards preventing such practices. They should implement certain guidelines, provide counselling and train health care contributor to give proper care to affected girls, women, men and infants.

Laws, regulations should be developed and emphasized on the basis of international, regional and local level to eliminate the practice of genital mutilation. Government of all the countries should keep a record on places and communities in their state which are practicing genital mutilation and if done then they should take legal step. The survivors or victims should raise their voice so that it reaches to everyone and they can take further action. Education, communication and laws should set a combined goal to end such practices.

## Conclusion

International organisations are sending their ambassadors to each vulnerable corner of the globe to spread awareness and knowledge about sexual education, mental health and female's health. But it is not easy to make everyone make understand the laws and that is why in contemporary period, it doesn't capture the limelight. Global public says the world has lots of problems to face and look into and therefore such human rights violation is hard to notice. The slogan to stop Female Genital Mutilation captured the limelight globally for some years and through social media, ted talks and other representative platforms the victims and survivors shared their stories. Most of the survivors were female and hardly any male and there raised an imbalance in equality. Through this research process I found that male genital mutilation is a factor which is not openly accepted as a crime. It is accepted as a medical

---

<sup>10</sup> Unconstitutional US anti-FGM law exposes hypocrisy in child protection :  
<https://theconversation.com/unconstitutional-us-anti-fgm-law-exposes-hypocrisy-in-child-protection-109305>

process as well as a cultural. If done to infants then it is a cultural ritual and if done to adults then it's a medical reason. After going through lots of mediums, I somehow understood that men are not open about such process even if they are victims, while they forget that they are humans and it is clearly a violation. The irony is that many people in the world don't even know that such practices exist. So whose fault is this, the government, the person himself, or lack of awareness for human rights?



# De Jure Nexus

---

LAW JOURNAL