



INDIAN JOURNAL OF  
LEGAL REVIEW

VOLUME 4 AND ISSUE 1 OF 2024

INSTITUTE OF LEGAL EDUCATION



## INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 1 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-1-of-2024/>)

### Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – [info@iledu.in](mailto:info@iledu.in) / [Chairman@iledu.in](mailto:Chairman@iledu.in)



© Institute of Legal Education

**Copyright Disclaimer:** All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

## RETHINKING FEMALE GENITAL MUTILATION: A HUMAN RIGHTS' APPROACH

**AUTHOR:** S SRINIDHI, STUDENT AT SCHOOL OF LAW, CHRIST (DEEMED TO BE) UNIVERSITY

**BEST CITATION** – S SRINIDHI, RETHINKING FEMALE GENITAL MUTILATION: A HUMAN RIGHTS' APPROACH, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (1) OF 2024, PG. 372-377, APIS – 3920 – 0001 & ISSN – 2583-2344.

### ABSTRACT:

Female genital mutilation/cutting (FGM/C) is recognized globally as a grave violation of women's and girls' rights, involving the partial or total removal of external genitalia or other non-medical genital procedures. With over 200 million females affected and approximately 3.6 million at risk annually, FGM/C presents a pressing human rights concern. Drawing on the principles of the Universal Declaration of Human Rights, the Convention on the Elimination of all Forms of Discrimination against Women, and the Convention on the Rights of the Child, this paper examines the multifaceted dimensions of FGM/C and the imperative for human rights-based interventions. Through legal enforcement, empowerment-focused education, and community-driven campaigns, efforts to eradicate FGM/C strive to protect the fundamental rights and well-being of women and girls globally. This research contributes to the ongoing discourse on effective strategies for addressing FGM/C and underscores the urgency of concerted action to eliminate this harmful practice.

### Introduction:

Violence against women and girls transcends geographical and socio-economic boundaries, impacting females globally. Over the past two decades, extensive research has delved into the root causes and risk factors of such violence. Robust interventions across healthcare, justice systems, and social realms have emerged to combat this issue. These interventions encompass large-scale campaigns, educational initiatives, economic empowerment programs, community mobilization, and participatory group education efforts.

The United Nations (UN) and the European Union have launched a multi-year global initiative, "The Spotlight Initiative," aimed at eradicating all forms of violence against women and girls, aligning with the 2030 Agenda for Sustainable Development. This initiative underscores the critical role of targeted investments in women and girls for sustainable development. Notably, female genital mutilation/cutting (FGM/C) serves as a significant indicator of gender inequality, linked

to various harmful practices and health complications throughout life.

To combat FGM/C, empowering girls and women is imperative, as it positively influences gender dynamics, sexual and reproductive health choices, and overall health-related behaviors. The UN, UNICEF, WHO, and other anti-FGM/C entities have adopted diverse strategies to raise awareness and facilitate the abandonment of this harmful practice.

### Definition of FGM/C:

Female genital mutilation/cutting (FGM/C) refers to a range of procedures involving the partial or total removal of external female genitalia or other injury to the female genital organs for non-medical reasons. This harmful practice is deeply rooted in cultural, social, and religious beliefs, and is often perpetuated as a means of controlling women's sexuality, ensuring chastity, and upholding social norms.

FGM/C can have profound physical, psychological, and social consequences for affected individuals, including chronic pain, infections, complications during childbirth,

trauma, and long-term sexual and reproductive health issues. Despite widespread recognition of its harmful effects, FGM/C persists in many communities worldwide, necessitating concerted efforts from governments, civil society, and international organizations to eradicate this violation of human rights and promote gender equality.

### Types of FGM/C:

The World Health Organization (WHO) categorizes female genital mutilation/cutting (FGM/C) into four main types.

- Type I involves the partial or complete removal of the clitoris or clitoral hood (clitoridectomy).
- Type II entails the partial or total removal of the clitoris and inner labia, often with excision of the outer labia (excision).
- Type III, known as infibulation, involves the narrowing of the vaginal opening by cutting and stitching the labia, sometimes including removal of the clitoris. Re-infibulation refers to the re-narrowing of the vaginal opening, typically after childbirth.
- Lastly, Type IV encompasses all other harmful procedures performed on female genitalia for non-medical purposes, such as pricking, pulling, piercing, incising, scraping, and cauterization.

### Health complications as a result of FGM/C:

FGM/C is primarily inflicted on minors and adolescents for ritualistic purposes and lacks any medical justification, causing immense pain and trauma. This practice violates fundamental human rights, including equality, freedom from torture, and the rights of the child. All forms of FGM/C carry substantial health risks, with nearly all victims experiencing bleeding and pain. Immediate complications encompass shock, hemorrhage, and infection, often leading to death, disability, or infertility. Long-term

consequences include chronic pain, psychological distress, and sexual dysfunction.

FGM/C is typically performed under unhygienic conditions by practitioners lacking proper medical knowledge. Type III poses the highest immediate risk and is frequently underreported. Studies indicate heightened obstetric risks among women with FGM/C, with increased rates of adverse childbirth outcomes and complications. The cultural roots of FGM/C trace back millennia, transcending religious and cultural boundaries, though it lacks scriptural basis in major religions. Opposition to the practice emerged from medical communities in the 19th century.

### Human Rights' Perspective:

The 2008 UN interagency statement defines female genital mutilation/cutting (FGM/C) as a violation of human rights, gender-based discrimination, and violence against girls. It contravenes numerous human rights principles outlined in the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child.

Despite Article 3 of the Universal Declaration emphasizing the right to life, liberty, and security of person, many women and girls globally lack autonomy over their lives and bodies. CEDAW, adopted in 1979, aims to eradicate gender discrimination, emphasizing the principles of equality and respect for human dignity. However, some nations, like Somalia, have yet to ratify CEDAW, highlighting challenges in acknowledging fundamental human rights.

Regarding the Convention on the Rights of the Child, while it advocates for children's evolving capacity to make decisions, consent to FGM/C is often coerced by societal pressures. Despite some parents perceiving benefits, FGM/C remains a violation of girls' rights. Various UN bodies affirm FGM/C as a human rights violation, urging states to take decisive action against it. FGM/C infringes upon fundamental



rights, including equality, freedom from torture, and the right to health, yet legislative efforts face obstacles due to entrenched cultural traditions.

### Legislation and Resistance:

Since 1965, 24 out of the 29 countries with the highest prevalence of FGM/C have incorporated a human rights-based approach into their legislation regarding the practice. Penalties for FGM/C range from three months to life imprisonment, often accompanied by monetary fines. Additionally, 12 developed nations with significant FGM/C-practicing populations have enacted laws criminalizing the practice. Some laws prohibit FGM/C in government health facilities and by medical professionals, while others criminalize it universally or when performed on minors. Sanctions may extend to those who are aware of the practice but fail to report it, and may cover both local and extraterritorial acts. International law protects the right to participate in cultural life and freedom of religion but also allows limitations to safeguard the rights of others, making cultural claims insufficient to justify FGM/C.

Legislation plays a crucial role in challenging traditional norms, but its effectiveness depends on complementary measures addressing cultural expectations. Transitioning away from FGM/C involves varying degrees of readiness across countries, with tensions existing between those advocating for abolition and those upholding the tradition. Cultural sensitivity and grassroots collaboration are essential for meaningful eradication efforts. However, resistance to anti-FGM/C laws persists due to cultural allegiance, often leading to conflicts between law enforcement and local customs, termed "social nullification." While legislation is crucial, its implementation may face resistance and necessitate nuanced approaches to ensure compliance and foster societal change.

### Education:

Educational strategies rooted in human rights principles offer diverse learning opportunities to

communities in combating female genital mutilation/cutting (FGM/C). However, the implementation of such interventions may sometimes be perceived as intrusive and top-down, underscoring the significance of community engagement before initiation.

This proactive involvement fosters community acceptance and enhances the efficacy of interventions. Education is often preferred over legislative measures due to its less coercive nature. While legal restrictions have shown promise in reducing FGM/C prevalence, they also risk driving the practice underground or prompting its earlier initiation before susceptibility to anti-FGM/C messaging. Although legal and political actions are indispensable, community-led educational initiatives constitute a vital component of global campaigns against FGM/C. While governmental measures set the stage for discouraging FGM/C practices, the ultimate challenge lies in persuading women, families, and communities to relinquish this harmful tradition.

Empowering communities necessitates tailoring educational interventions to their unique characteristics. This contextualization involves comprehensive community involvement in program planning, including the engagement of local members as facilitators or research assistants. Empowering religious and community leaders aids in advocacy, while leveraging community networks facilitates information dissemination and fosters public awareness. Tailoring FGM/C information to meet the specific needs of target populations enhances program acceptability and accelerates information dissemination.

Cultural competency training holds promise in enhancing health outcomes and care quality. Nonetheless, further research is imperative to identify optimal approaches for engaging diverse demographic groups, including non-practicing communities, in rights-based educational interventions to maximize FGM/C prevention. Successful eradication efforts often entail multi-faceted, community-led initiatives

alongside legal measures, exemplified by significant declines observed in countries like Kenya and Burkina Faso. These programs, dating back to the mid-1970s, initially focused on raising awareness of FGM/C's adverse health effects, employing various informational materials to challenge cultural taboos.

Education initiatives should alleviate stigma and provide technical and financial resources at the community level, facilitated by religious and community leaders' active involvement. Moreover, programs must address long-term health consequences of FGM/C, reproductive health, gender-based violence, parenting strategies, and communication skills. Engaging local organizations to establish anti-FGM/C support groups in rural areas facilitates positive behavioral change. Furthermore, initiatives like promoting alternative rites of passage, such as those underway in Sierra Leone and Somalia, seek to preserve cultural heritage while shifting beliefs away from FGM/C.

Higher education emerges as a significant factor supporting FGM/C discontinuation, particularly among community leaders. Empowerment combined with higher education significantly predicts individuals' intent to discontinue the practice. Involving men in FGM/C elimination efforts is crucial, as they are also impacted by this practice. Men's higher educational attainment correlates with stronger support for abandoning FGM/C. Organizations like the Global Alliance against FGM prioritize men's involvement in eradicating the practice, advocating for enhanced grassroots efforts and fostering dialogue at local, regional, and international levels. Men's engagement complements ongoing rights-based programs, facilitating advocacy and dialogue between genders and across various stakeholders, essential for effective FGM/C eradication.

#### **To sum up:**

Female genital mutilation/cutting (FGM/C) serves as a stark reflection of gender inequality, emphasizing the critical importance of empowering women to eradicate this harmful

practice. Efforts spearheaded by a multitude of national and international nongovernmental organizations (NGOs) and United Nations (UN) agencies have implemented a diverse array of programmatic, research, and policy interventions. These initiatives are strategically designed to foster community, familial, and individual abandonment of FGM/C.

A comprehensive approach to addressing FGM/C encompasses multifaceted strategies, including advocacy and educational interventions targeting communities and influential leaders, legislative measures, capacity-building initiatives, healthcare interventions, media campaigns, and community dialogues. By leveraging education as a tool, these interventions illuminate the fundamental human rights of girls and women, promoting awareness and understanding within communities.

Educational initiatives play a pivotal role in empowering individuals with knowledge about the adverse physical, psychological, and human rights implications of FGM/C. Through targeted educational programs, communities are equipped to challenge harmful cultural norms and traditions perpetuating the practice. Moreover, education serves as a catalyst for fostering critical thinking and promoting gender equality, empowering women and girls to assert their rights and advocate for their well-being.

Furthermore, educational interventions facilitate the dissemination of accurate information about FGM/C, debunking myths and misconceptions surrounding the practice. By promoting open dialogue and fostering a supportive environment for discussion, education encourages community members to confront deep-rooted beliefs and engage in constructive discourse aimed at fostering positive social change.

In addition to educational initiatives, sustained advocacy efforts are essential for mobilizing community support and garnering political will to address FGM/C effectively. Legislative interventions complement educational

endeavors by enacting laws and policies that criminalize FGM/C, providing a legal framework to protect the rights of women and girls and deter perpetrators.

Capacity-building interventions focus on equipping healthcare professionals, community leaders, and grassroots organizations with the necessary skills and resources to prevent and respond to instances of FGM/C effectively. By strengthening local capacities, these initiatives empower communities to take ownership of efforts to combat FGM/C and support survivors.

Healthcare interventions play a crucial role in providing medical care and support to individuals affected by FGM/C, addressing immediate health needs, and promoting reproductive health and well-being. Through accessible and culturally sensitive healthcare services, survivors receive comprehensive care and support to address the physical and emotional consequences of FGM/C.

Media interventions leverage the power of mass communication channels to raise awareness, challenge societal norms, and promote positive behavioral change regarding FGM/C. By disseminating accurate information and amplifying voices advocating for the elimination of FGM/C, media campaigns contribute to shifting societal attitudes and norms.

In essence, addressing FGM/C through education underscores the intrinsic link between gender equality, human rights, and the empowerment of women and girls. By employing a holistic approach that combines educational, advocacy, legislative, healthcare, and media interventions, concerted efforts can be made to eradicate FGM/C and create a future where all individuals are free from this harmful practice.

#### References:

1. J. Battle, M. Hennink, & K. Yount, Influence of Female Genital Cutting on Sexual Experience in Southern Ethiopia, 29 Int'l J. Sexual Health 173 (2017); E. Fulu, S.

Miedema, T. Roselli, et al., Pathways between Childhood Trauma, Intimate Partner Violence, and Harsh Parenting: Findings from the UN Multi-country Study on Men and Violence in Asia and the Pacific, 5 Lancet Global Health e512 (2017); M. Farage, K. Miller, G. Tzeghai, et al., Female Genital Cutting: Confronting Cultural Challenges and Health Complications across the Lifespan, 11 Women's Health 79 (2015).

2. World Health Organization. \*Eliminating Female Genital Mutilation: An Interagency Statement—OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO.\* Geneva: World Health Organization, 2008.
3. K. Brown, D. Beecham, and H. Barrett, "The applicability of behaviour change in intervention programmes targeted at ending female genital mutilation in the EU: Integrating social cognitive and community level approaches," *Obstetrics and Gynecology International* (2013).
4. World Health Organization, WHO guidelines on the management of health complications from female genital mutilation: Policy brief (Geneva: World Health Organization, 2016)
5. P. Shah, "Cutting female genital mutilation from the United States: A European-influenced proposal to alter state and federal legal responses when affording relief to Somali victims in Minnesota," *Cardozo Journal of Law and Gender* 22 (2015), p. 583
6. F. Dunn, "Is it possible to end female circumcision in Africa?" *Clinical Journal of Obstetric Gynecology* 1 (2018), pp. 7–13
7. K. Dalal, Z. Kalamatayeva, S. Mandal, et al., "Adolescent girls' attitudes toward female genital mutilation: A study in seven African countries," *F1000Research* 7 (2018).



8. N. Varol, S. Turkmani, K. Black, et al., "The role of men in abandonment of female genital mutilation: A systematic review," BMC Public Health 15/1 (2015), p. 1034.
9. M. Mohamud, M. Kaba, and M. Tamire, "Assessment of barriers of behavioral change to stop FGM practice among women of Kebri Beyah district, Somali regional state, eastern Ethiopia," Global Journal of Medical Research (2017)
10. E. Asekun-Olarinmoye and O. Amusan, "The impact of health education on attitudes towards female genital mutilation (FGM) in a rural Nigerian community," European Journal of Contraception and Reproductive Health Care 13/3 (2008), pp. 289–297.

