

FEMALE GENITAL MUTILATION IN INDIA: AN UNTOLD SAGA

“When men are oppressed, it’s a tragedy. When women are oppressed, it’s tradition”-

Letty Cottin Pogrebin.

N. CHHETRI Ph.D. Research Scholar at National Law University and Judicial Academy, Assam.

R. MARGAR LL.M. National Law Institute University, Bhopal.

ABSTRACT

Since time immemorial women have been subjected to many forms of repressive traditional, religious and cultural practices. One such practice is ‘Female Genital Mutilation’ or FGM. Female genital mutilation is a religious practice of certain communities wherein females of different age groups are subjected to a high-risk procedure of a partial or complete removal of the clitoral area of a female’s genitals. This paper deals with the practice of FGM in India. In India, this practice is common amongst the Bohra community. This research paper analyses the reasons behind the prevalence of FGM in India and the reasons behind the lack of laws to eradicate the issue. It dives into how FGM sexually discriminates women and is one such practice that still corners women to be nothing more than ‘chattel’ deprived of basic human rights and equality. Female genital mutilation is a practice that has been interpreted to be a religious practice and has found not only men but women to be its defender. It is jarring to see how it is related to life-threatening health problems and is a form of sexual abuse against female children and female adults but has yet not received the much-needed legal attention. FGM is a criminal offence that has received attention of the United Nations Organisation and has had efforts of the UN and its agencies to eradicate it. However, the same commitment is required at the domestic level to curb the problem adequately in India. Therefore, this research paper is an attempt to analyse the different facets of the practice of FGM and the legal and judicial response that is needed to protect women of all age groups from this social injustice.

Keywords: *Female genital mutilation, India, Bohra community, sexual abuse, human rights.*

1. INTRODUCTION

Female Genital Mutilation is one of such heinous crimes committed against women in India which is seldom spoken about. In today’s day and age where the world has seen major developments in technological, intellectual and cultural spheres, it is heart-wrenching to see how the notion of sexual autonomy of women still seems to startle most people in the country. Far from achieving sexual autonomy, women of all age groups are still struggling to break loose from the shackles of being mere chattels in society. This lamentable saga is clearly seen in how ‘female genital mutilation’, as a crime, is not seen to have any explicit feature in the Indian Penal Code, 1860 or the Protection of Children from Sexual Offences Act, 2012.

‘Female genital mutilation’ or ‘female genitalia cutting’ which is also known as FGM/C is a process which involves partial or total removal of the clitoral hood or any part of a female’s external genitalia for non-medical reasons.¹ This procedure, far from being of any medical benefit, increases health complications of women such as excessive bleeding, pain while urination, cyst, infections, complications during childbirth and high risk of new-born deaths². According to the World Health Organisation’s report on female genital mutilation, FGM procedures have been performed on more than 200 million females of all age groups in many countries around the world, primarily in

¹ World Health Organisation (hereinafter as WHO), “Eliminating Female Genital Mutilation: An interagency statement-OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO”, <https://www.un.org/womenwatch/daw/csw/csw52/statements_missions/Interagency_Statement_on_Eliminating_FGM.pdf>, accessed 29th March, 2023.

² World Health Organisation, “Report on Female Genital Mutilation” (hereinafter as FGM), 31st January 2023, <<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>>, accessed 24th February 2023.

thirty countries in regions of Africa, the Middle East, and Asia.³ There are four types or kinds of FGM which have been identified by the WHO.⁴ The first of which involves the clitoral gland, which is an external portion of the female genital, also called the prepuce or foreskin surrounding the clitoral gland, being removed completely or partially.⁵ The second method involves the labia, which is the inner fold of the vulva, and the labia major, which is the outer fold of the vulva, being removed completely or partially.⁶ The third procedure which is known as infibulation, involves narrowing the vaginal opening by slicing a portion of the major and minor labia and repositioning it at the vaginal opening to form a covering seal.⁷ The last type comprise of all methods of genital mutilation such as pricking, incision, piercing, cauterisation or scraping to inflict sex discrimination and control over sexual lives of the victims.⁸ Every year, the 6th of February is observed as the “International Day for Zero Tolerance of Female Genital Mutilation”. However, the global statistics that are mentioned above are still alarming. FGM is an appalling human rights violation that calls for dire response starting from the ground level which is nation-wide and stretching to the international level. The most disheartening part in the efforts of addressing the issue is that India still lives in denial of the prevalence of such a practice.⁹ This is seen in the judicial response to a PIL filed by Advocate Sunita Tiwari pleading the ban of the heinous practice in the country.¹⁰ The PIL was set aside by the Supreme Court stating that there is not enough data available. It is estimated that roughly 70% to 80% of Bohra women about of their two million population has been a victim of FGM¹¹. This practice is common in Bohra community in India. The procedure is named as “Khatna” or “Khafz/Khafd”. It’s performed on girls between the age groups of 6-7 years and involves cutting the tip of the clitoris¹². The procedure is performed by women called “Mullanis” who are not trained and the slightest mistake can result in life-threatening complications¹³. It is generally seen that the elderly women in the family are the ones who constantly push for this procedure to be done and they themselves make the arrangements.

2. A BRIEF HISTORY OF THE BOHRA COMMUNITY

The practise of FGM is largely done in the Bohra community. The Bohra’s are people from the Shia sect of the Muslim community. In India, they are found in parts of Gujarat, Maharashtra, Rajasthan and Madhya Pradesh. The people hailing from the community are also found in other parts of the world such as Canada, Australia, United Kingdom, the United States of America, Pakistan, Sri Lanka, Singapore and some parts of East Africa. They are of the belief that by ‘Nasee-a-Jali’, which means ‘by way of declaration’, the practice is an essential religious practice which was succeeded by Ali from Mohammad, who are considered as religious figure and are believed to be amongst the descendents of Allah. In the year 765 A.D., there was a division in the Shia sect due to the death of the 5th Iman ‘Jafar-as-Sadiq’ which resulted in the division of Shia into ‘Ismailia’ and ‘Isna-Ansari’. The ones in support of Ismail’s son were known as Ismailis and the Dawoodi Bohra’s belong to the

³Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Health Organisation, “Report on Female Genital Mutilation” (hereinafter as FGM), 31st January 2023, <<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>>, accessed 24th February 2023.

⁹Sristhi Ghosh, Asia in Global Affairs, “Prevalence of Female Genital Mutilation in India: A Neglected Reality”, 12th July 2021, <<https://www.asiainglobalaffairs.in/dialogue/prevalence-of-female-genital-mutilation-in-india-a-neglected-reality/>>, accessed 25th February 2023.

¹⁰ Ibid.

¹¹Ibid.

¹²Lawyers Collective, “A Guide to Eliminate FGM practice in India”, 2012, <<https://www.lawyerscollective.org/wp-content/uploads/2012/07/Female-Genital-Mutilation-A-guide-to-eliminating-the-FGM-practice-in-India.pdf>>, accessed 25 February 2023.

¹³World Health Organisation, “Report on Female Genital Mutilation” (hereinafter as FGM), 31st January 2023, <<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>>, accessed 24th February 2023.

'Ismailia' sect. The Bohra's have a reputation of being a successful in running businesses in the country and quite surprisingly the women in the community are highly-educated. Even then, they are the only community in India who follow the practice of FGM which is popularly known by the members of the community as 'Khatna'. It is believed that the practice is a result of their religious roots from Egypt and Yemem. Along with the Dawoodi Bohra a few other sects such as the Sulemania's and Alvi Bohra's also practice Khatna. Circumcision/Khatna/Khafz of women is not found in the Quran and, hence, is not promoted by the main religious text of the Muslims, however, a religious text called 'Daimul-Islam' followed by the Bohra's endorses the practice. It provides that such circumcision will promote the healthy female hygiene in the long run and will enhance their complexion and control sexual urges. The community appoints a 'mid-wife' or 'Dai', who is a missionary entrusted with the duty to carry on 'Dawat' or 'mission' of the imams. The appointed mid-wife/dai has a lot of control on the lives of the females of the community. There have been cases of social boycotts which were the result of voices raised against the immoral and inhuman practices of the community. The people of the community generally remain silent because the community is closely knit and anyone who disobeys or questions the rules are boycotted. They are not invited in religious gatherings and the burial space is also taken away from them. There are chances that sons and daughters of these families won't find a suitable groom or bride from their own community.

3. INTERNATIONAL PERSPECTIVE ON FEMALE GENITAL MUTULATION.

Female genital mutilation is a grave violation of human rights as provided by various national and regional human rights instruments. Various rights such as right to life and physical integrity, right to health and the right to torture, cruel and unusual treatment and violence. Since the procedure of FGM is performed mostly on girls between the ages of 6 to 7 years, hence, it is a practice violating various provisions provided under the **United Nations Convention on the Rights of the Child, 1989**.

Gender discrimination is something that has been provided under various human rights instruments. **The Convention on Elimination of all form of Discrimination against Women, 1979**, under its Article 1 provides the definition of Discrimination as:- "*any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field*".¹⁴

The male circumcision has health benefits which is not the case with the females. It has severe health complications on women and is a compromise with her fundamental rights and liberties.

Various other human rights instruments that oppose gender discrimination are viz., **The Universal Declaration of Human Rights, 1948 (UDHR)** under Article 2 provides that rights and freedoms enlisted in the declaration shall be available to everyone, without any distinction on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property birth or other statute¹⁵. **The International Covenant on Civil and Political Rights, 1966 (ICCPR)** under Article 2 provides that the state parties to the covenant shall take all appropriate measures to ensure that the rights provided in the covenant are available for all individuals without distinction on the basis of race, colour, sex, language, religion, political opinion, national or social origin, property birth or other status¹⁶. Furthermore, Article 3 provides that the parties to the covenant shall take appropriate measures to ensure equality between men and women to the enjoyment of all the civil and political rights provided by the covenant¹⁷. Article 26 of the ICCPR also provides that every person is equal in the eyes of law and is entitled to without any discrimination on the grounds such as

¹⁴The Convention on Elimination of All forms of Discrimination against Women, 1979 (hereinafter as CEDAW) Art 1.

¹⁵ The Universal Declaration of Human Rights, 1948, Art 2.

¹⁶ The International Covenant on Civil and Political Rights, 1966, Art 2.

¹⁷ Ibid art 3.

race, colour, sex, language, religion, political opinion, origin, property, birth or other status the equal protection of law¹⁸.

The right to life that has been protected under Article 3 of The Universal Declaration of Human Rights, 1948 (UDHR) provides that, *“everyone has the right to life, liberty and security of person”*¹⁹. Article 6(1) of The International Covenant on Civil and Political Rights, 1966 (ICCPR) provides that *“every human being has the inherent right to life. The right shall be protected by law. No one shall be arbitrarily deprived of his life”*²⁰. Article 6 (1) of The Convention on the Rights of the Child, 1989 (CRC) provides that *“states parties recognize that every child has the inherent right to life”*²¹.

The right to attain the highest attainable physical and mental health has been provided under Article 25 of **The Universal Declaration of Human Rights, 1948 (UDHR)** and it reads, *“a standard of living is the right to every individual which is adequate for wellbeing of himself and his family”*²². Furthermore, Article 12 of **The International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR)** provides that the parties to the covenant have a duty to recognize for everyone the highest attainable standard of physical and mental health²³. As provided in the preceding paragraphs of this paper, it has been mentioned that FGM has no health benefits, but results in severe health complications like excessive pain while carrying on daily activities, excessive bleeding, harmful psychological effects, excruciating pain when involved in sexual intercourse and infection. Girls ranging from 6-7 are, mostly, victims of this horrific practice and FGM has been considered by various United Nation agencies such as WHO, UNDP, UNICEF, OHCHR, UNFPA, UNESCO, UNAIDS, UNECA, UNHCR, UNIFEM as a violation of the rights of children. **The United Nations Convention on the Rights of the Child, 1989 (UNCRC)** provides under Article 3 *“the best interest of child”* and Article 24 provides that, *“state parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.”*²⁴

Female genital mutilation is a form of violence against women. Such violence is clearly prohibited under Article 2 of the Declaration on Elimination of Violence against Women, 1993.²⁵ The Article defines ‘violence against women’ as actions that are not limited to, however encompassing, harmful and discriminatory actions against women that are of the sexual, psychological and physical in nature.²⁶ These include violence in the form of rape, dowry-related violence, marital violence and marital rape, all kinds of domestic violence, female genital mutilation, and other damaging traditional practices.²⁷ In addition to the mentioned actions, non-spousal violence and violence resulting from exploitation that occurs frequently in families are also considered as violence against women.²⁸ Furthermore, the Article provides that, violence against women such as sexual abuse, sexual harassment, harassment at workplace, harassment at educational institutions, and in any other place are actions of physical, sexual and psychological violence against women.²⁹ Any kind of psychological, sexual and physical abuse tolerated or perpetrated by the State is also considered violence against women in the aforementioned Article.³⁰

General Recommendation No.19 of the CEDAW committee specifically provides that the definition of the term “discrimination” has been provided under Article 1 of the convention. The definition umbrellas actions of violence that is inflicted on women simply because of the gender that the

¹⁸ Ibid art 26.

¹⁹ The Universal Declaration of Human Rights, 1948, Art 2, Art 3.

²⁰ The International Covenant on Civil and Political Rights, 1966, Art 6 (1).

²¹ The Convention on the Rights of the Child, 1989, Art 6(1).

²² The Universal Declaration of Human Rights, 1948, Art 25.

²³ The International Covenant on Economic, Social and Cultural Rights, 1966, Art 12.

²⁴ The United Nations Convention on the Rights of the Child, Art 3 and Art 24.

²⁵ The Declaration on Elimination of Violence against Women, 1993, Art 2.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

individual belongs to. It is, therefore, understood to be a gender-based violence. It also includes the act of physical, mental and sexual harm done to women. The Article further provides that gender-based violence that restrains a woman's full enjoyment of all the fundamental rights and freedoms provided under general international law or under any human rights convention will be treated as discrimination under Article 1 of the convention.³¹

The CEDAW committee in the year 1990 adopted the general recommendation No.14 which was on female circumcision. It provides that all states must take appropriate and adequate measures to eradicate the practice of FGM and also submit a report mentioning the steps and measures that are taken in order to eradicate the same. The Joint General Recommendation/General Comment 31 by the 'UN Committee on the Elimination of Discrimination against Women' and General Recommendation No.18 by the 'UN Committee on the Rights of the Child on harmful practices' provides that the state should take rigorous measures to ensure protection and fulfilment of the rights provided to all citizens.³²

4. INDIAN LEGAL FRAMEWORK ON FEMALE GENITAL MUTILATION.

There is no specific provision provided to prohibit and abolish the practice of FGM, but provisions of certain Indian legislations and the Indian Penal Code can be applied by law to penalise the culprit. Sections 319 to 326 of the Indian Penal Code, 1860, are provisions that mention the ingredients found in the evil practice of FGM and can be interpreted in such a way that the offenders can be punished. Section 319 of the IPC provides that, "*Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.*"³³ According to Section 319, IPC, 'pain' is a necessary ingredient to establish commission of the offence and FGM results in women undergoing a serious amount of pain.³⁴ The second prerequisite mentioned in the section is 'communicating a disease' and the women are subject to FGM are the victim of various diseases such as cyst, infection, etc.³⁵ The third prerequisite is 'causing infirmity' and it basically means inability of an organ to perform its normal function which may either be temporary or permanent and the female genitals are badly wounded and women cannot urinate properly for a long period of time.³⁶ Section 320 of the IPC provides a list of hurts that are called as grievous hurt.³⁷ The eighth one in the list reads, "*any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain or unable to follow his ordinary pursuits.*"³⁸ Post the surgery of FGM is life-threatening in nature since post surgery women undergo excessive blood loss and other severe infections owing to the surgery being performed by an individual who is not a trained medical professional. The wound remains fresh for a long period of time making the normal process of urination painful. Section 321 of the IPC mentions the offence of "voluntarily causing hurt"³⁹ and Section 322 of the IPC also provides for the offence of "voluntarily causing grievous hurt".⁴⁰ Hence, both the sections are of the nature that they can be applied by a police officer to chargesheet individuals performing FGM and put such individuals through trial.

The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) provides under Section 3(b) the offence of 'penetrative sexual assault' which means that, "*the insertion, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of*

³¹Convention on Elimination of Discrimination against Women 1979, General Recommendation No. 14.

³² UN Committee on the Elimination of Discrimination against Women, UN Committee on the Rights of the Child on harmful practices, "Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices", <<https://digitallibrary.un.org/record/807256?ln=en>>, accessed 1st March, 2023.

³³The Indian Penal Code 1860, s 319.

³⁴ Indian Penal Code, 1860, s 319.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Indian Penal Code, 1860 s 320.

³⁸ The Indian Penal Code 1860, s 320.

³⁹ Ibid s 321.

⁴⁰ Ibid s 322.

the child or makes the child to do so with him or any other person."⁴¹ Therefore, it can be said in simple words that insertion of an object into the vagina of girl-child, even on the surface of the vulva, amounts to sexual assault and that does not necessarily have to be complete penetration. If one reads the provision with explanation-1 of Section 375 of IPC, it provides that, *"For the purposes of this section, vagina shall also include labia major"*. It can be comprehended that with both the sections read together, a person can be held liable for FGM under the Indian law.

The Goa Children's Act 2013, also defines sexual assault under section 2(y)(i) as, *"different types of intercourse; vaginal or oral or anal, use of objects with children and deliberately causing injury to the sexual organs of children."*⁴² Post-FGM surgery the sexual organ of the child is wounded and the culprit can be punished for the same on the basis of this provision.

5. FEMALE GENITAL MUTULATION AN ESSENTIAL RELIGIOUS PRACTICE.

India is a secular country and it provides every person the freedom to practice, profess and propagate any religion. The constitution of India under Article 25 provides the *"freedom of conscience and free profession, practice and propagation of religion"*

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

*(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus"*⁴³

Therefore, the freedom provided is not absolute in nature, but has certain limitations attached to it, such as public order, morality and health. FGM is something that inflicts grievous effects on the victim's health and, therefore, it must be prohibited by law. If one reads Article 25(2) of the Constitution of India, one can find that it specifies that the state has the power to make laws to curb the issue. Now the question that remains unanswered is whether the practice of FGM has any religious basis. Generally, it is believed by the ones keeping the practice alive that a woman's womanhood begins once FGM is performed on her.⁴⁴ According to a study conducted by the WHO on FGM being practiced among the Dawoodi Bohra women, it is revealed that the primary reason for a girl to undergo FGM is due to customs, religious requirement, tradition and to control the sexual urges of a woman⁴⁵. In the year 2008, UNFPA conducted a study on Dawoodi Bohra women and most of the women questioned had stated that, FGM will provide sunnat (normative) and they have to follow it.⁴⁶ FGM has been justified by the people of the community by stating that it helps in protecting the women from sexual urges and the religious freedom provided by the constitution.

The question that needs to be answered is whether FGM is an essential religious practice or not. The term 'essential religious practice' has not been expressly provided in the Indian constitution. However, it has developed over time by judicial precedent set by the Supreme Court and High Courts of the country in numerous rulings. The doctrine basically means that the Indian constitution provides every citizen the freedom to profess, practice, propagate their faith and this is subjected to reasonable restrictions such as public order, morality, health and other fundamental rights. Therefore, in simple words, essential religious practice refers to those practices that are fundamental to a

⁴¹The Protection of Children from Sexual Offences Act, 2012, s 3(b).

⁴² The Goa Children's Act 2013, s 2(y)(i).

⁴³ The Constitution of India, 1950, Article 25.

⁴⁴ World Health Organisation, "Report on Female Genital Mutilation" (hereinafter as FGM), 31st January 2023, <<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>>, accessed 24th February 2023.

⁴⁵ Ibid.

⁴⁶ World Health Organisation, "Report on Female Genital Mutilation" (hereinafter as FGM), 31st January 2023, <<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>>, accessed 24th February 2023.

religion and hence, not being able to follow the practices will result in significant changes in the course of a religion. The doctrine was, for the very first time, articulated in the case “Commissioner, Hindu Religious Endowments, Madras v. Sri Laskhmindra Thirtha Swamiar of Sri Shirur Mutt”.⁴⁷ In this case, the petitioner challenged the direction given by the Hindu Religious Endowment Board which was constituted under the Madras Hindu Religious Endowment Act, 1972. The petitioner stated that it was a violation of the right under Articles 25 and 26 of the Indian constitution. The court gave a judgement in the favour of the petitioner stating that according to the doctrine, it is important to carry out practices that lays down the foundation of the religion and carrying it forward is an integral part of the very existence of the religion. There have been other latest cases such as the “Indian Young Lawyers Association and Ors v. The state of Kerala and Ors”,⁴⁸ also known as the Sabarimala case, which has laid strong precedent on the subject of “essential religious practice” and ruled that women are allowed to enter the Sabarimala temple as restricting the same is not an essential religious practice. Another landmark judgement on the mentioned subject is “Aishat Shifa v. The State of Karnataka and Ors”⁴⁹, also known as the Hijab Case. In the judgement, one can see the application of the doctrine of essential religious practice declared the wearing of a hijab as one not being an essential religious practice. Therefore, on the basis of the set precedents and interpretations, one can safely conclude that the practice of FGM does not qualify as an essential religious practice because its non-performance would neither affect the foundation of the religion or the very existence of the religion.

6. CONCLUSION AND SUGGESTIONS

The practice of female genital mutilation has been a social evil for the women of the Bohra community since time immemorial. Addressing this social and cultural evil in the country can start with the law makers and the judiciary to acknowledge the existence and prevalence of the issue. Under the Indian law the culprit can be prosecuted under various provisions of the Indian Penal Code, 1860 and the Protection of Children from sexual Offences Act, 2012, but there has to be specific laws or penal provisions in place in order to expunge the issue. Enacting specific laws to address the human rights violation of women in the form of FGM is an essential requirement that is recommended by the international instruments as well. The practice does, in no way or form, qualify the test of essential religious practice according to the parameters provided by various precedents, however, women of the Bohra community still considers it to be an essential religious practice that take them closer to God. There has to be proper awareness given to the women of the aforementioned community and even around the country to help them understand the severe repercussions of the practice which is not only in terms of health, but it terms of it symbolising sex discrimination and gender inequality and bodily control of women. Furthermore, international law, no doubt, safeguards the freedom of religion and the right to preserve one's culture. The International law, however, provides that the right to publicly express one's religion or beliefs may be subject to restrictions needed to safeguard the basic liberties and rights of others. Hence, it is impossible to use societal or cultural justifications to support female genital mutilation. In today's day and age mass media has a big role to play in case of awareness, therefore, it should be used to its fullest potential by the government agencies. There has to be proper laws and penal provisions prohibiting and penalising female genital mutilation in order to achieve “equality before the law and equal protection of the laws within the territory of India” which is a fundamental right provided under Article 14 of the Constitution of India. In addition, the crime is generally inflicted more on children in their teenage years and thus, it is a much needed step to give FGM a specific feature in the POCSO Act, 2012 in order to know its meaning in the eyes of law and to protect children adequately against this heinous crime. Giving the issue of the prevalent practice of FGM in the nation a much needed legal and governmental attention will enable the police to obligatorily chargesheet the offenders under a proper section of the Indian law and to provide the protection and justice that the victims deserve.

⁴⁷ AIR 1945 SC 282.

⁴⁸ WP No. 373 of 2006.

⁴⁹ CIVIL APPEAL NO. 7095 OF 2022.

Inspiration must be drawn from countries like United Kingdom that came up with The Female Genital Mutilation Act, 2003. The Act has made reporting procedure easier and has put an obligation on the teachers and medical professional to report the matter to appropriate authorities if they come to know that such a procedure has been performed on any female. FGM victims are generally girls under the age groups of 6 to 7 years. Furthermore, if the judiciary is unable to take adequate steps to address the practice of FGM then the National Human Rights Commission, National Commission for Women, National Commission for Protection of Child Rights and various State Human Rights Commissions, as deem fit by the judiciary, must be directed to do a survey and study about the prevalence of the issue and to be able to address it in the best way possible. Also, there should be a helpline number provided in which the child or an adult can report if FGM has been performed on a girl.