



# FEMALE GENITAL MUTILATION

**FACT SHEET**

# WHAT IS FEMALE GENITAL MUTILATION (FGM)?

The World Health Organisation (WHO) classifies FGM into 4 types:

- **Type 1:** Often referred to as **clitoridectomy**, this is the partial or total removal of the clitoris (a small, sensitive and erectile part of the female genitals), and in very rare cases, only the prepuce (the fold of skin surrounding the clitoris).
- **Type 2:** Often referred to as **excision**, this is the partial or total removal of the clitoris and the labia minora (the inner folds of the vulva), with or without excision of the labia majora (the outer folds of skin of the vulva).
- **Type 3:** Often referred to as **infibulation**, this is the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora, sometimes through stitching, with or without removal of the clitoris (clitoridectomy).
- **Type 4:** This includes all other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incising, scraping and cauterizing the genital area.





## IS FGM THE SAME AS MALE CIRCUMCISION?



Although the process of both male circumcision and FGM involves genital mutilation for primarily cultural reasons, the physical procedure and outcomes are not the same. The WHO states that removal of the foreskin of the penis may reduce infection, and there is compelling evidence that male circumcision reduces the risk of heterosexually acquired HIV infection in men by approximately 60%. On the other hand, the WHO affirms that FGM has no health benefits and can only cause harm. During an infibulation, female circumcisers often use instruments and techniques that are unsanitary, resulting in jagged cuts. A woman can experience serious urinary problems, including more frequent urinary tract infections that lead to kidney infections and kidney failure.

Healing from a typical male circumcision, especially circumcision of a new-born can take just a few days to a week or so. In FGM, the hood of the clitoris or the entire clitoris is removed, and the outer and inner vulva are removed too, leaving too small a hole, a huge number of stitches, and much pain and medical complications during recovery and for the rest of the woman's life, especially during childbirth.

Unlike FGM, male circumcision does not adversely affect a man's sexual pleasure. Since in many communities FGM is done to curb a woman's sex drive, it can lead to extremely painful sex for women and they are unable to experience pleasure.

In both the cases, the circumcision is often, though not always, done at a very young age when a child is not capable of consenting to such a private physical intrusion that may have long term consequences for them.

## WHERE DOES FGM HAPPEN?



FGM is a practice prevalent in Africa, practiced in at least 26 out of the 43 countries in the continent. According to the WHO, the percentage of women who have undergone the procedure in some countries is as high as 96%, with the highest rates in countries like Somalia, Guinea, Egypt and Sudan. In a 2013 UNICEF report covering 29 countries in Africa and the Middle East, it was found that Ethiopia had the region's highest number of women that have undergone FGM, while Somalia had the highest percentage of FGM (98%).

FGM is also practiced in some communities in Oman, the UAE, Yemen and parts of Indonesia, Malaysia, Pakistan, Sri Lanka and India.

In countries including Britain, USA and Australia, where thousands of FGM cases have been recorded, the practice is generally confined to the immigrant communities from countries where the practice is prevalent.

## IS FGM STIPULATED IN ANY RELIGION?



While FGM is predominantly practiced in countries with higher Muslim populations, it cannot be considered a Muslim custom. FGM is practiced in Egypt but not in Saudi Arabia, both predominantly Islamic countries. Some Muslim organisations, such as the Muslim Council of Britain, called the practice un-Islamic. There is no mention of FGM in the Quran.

FGM is practiced in certain Christian communities as well, and is a common practice among the Animists. FGM is practiced among Christian groups in Egypt, Nigeria, Tanzania and Kenya.

At the village level, those who practice FGM offer a mix of cultural and religious reasons for the practice. Christians and Muslims alike believe that circumcision of girls prevents them from certain vices and makes them more attractive for future husbands. Even though FGM is not prescribed by any religious text, many of those practicing it may consider it a religious obligation since female sexual purity plays an important role in many religious communities.

Certain myths led people to justify FGM. Hanny Lightfoot-Klein, an expert on FGM who spent several years researching the practice in Kenya, Egypt, and Sudan, notes that in Sudan, people believe that the clitoris will grow to the length of a goose's neck until it dangles between the legs, in rivalry with the male's penis, if it is not cut. Such beliefs fuel fear into people who then deem FGM necessary.

## IS FGM LEGAL?

FGM is banned by governments in 24 African countries, including Egypt, Ethiopia, Nigeria, Kenya and Uganda.

In Kenya, the punishment for FGM is twelve months imprisonment and/or a fine not exceeding fifty thousand shillings, and Ugandan legislation called the FGM Act, 2010 defines FGM and prescribes strict punishment. A doctor was sentenced to two years in jail for manslaughter and a further three months for the FGM operation that led to the death of a 13 year old girl in Egypt in 2015.

Other countries, including the United Kingdom, Australia, Sweden, Canada, France and the US have criminalised the practice. Canada, France, and the United Kingdom amended existing legislation on assault and child abuse to cover FGM. In 2017, United States officials arrested two doctors in Detroit for allegedly cutting the private parts of six girls.

In December 2012, the UN General Assembly adopted a unanimous resolution to eliminate FGM. UN agencies such as the WHO, the United Nations Children's Fund (UNICEF), and the United Nations Population Fund (UNFPA) have issued statements against the practice. These organisations published specific recommendations for policies and programs to help eradicate FGM.

Countries like Chad, Mali, Sierra Leone, Somalia and Sudan, where instances of FGM are very high, still do not have laws against FGM. Liberia banned FGM this year (2018) but only for a year. In July 2018, Somalia started its first prosecution for FGM when a 10 year old girl bled to death following the “traditional” cutting ritual. Since there are no explicit laws against FGM in Somalia, the Attorney General, Ahmed Ali Dahir, announced that the prosecution would use Somalia’s penal code as a legal basis for the case, which protects individuals’ right to life.

## FGM IN INDIA

In India, FGM is mainly practiced by the Dawoodi Bohra community, which is a sect within the Shia Muslim community. They are generally a business community and majority of them reside in India, Pakistan, Yemen, and East Africa. FGM or *khatna* or *khafz*, as the community refers to it, has been practiced for many years. Very young girls, usually aged below 10 years, are taken to an often untrained mid-wife or elderly woman of the community who then cuts the clitoris of the child, usually with a razor blade or a knife. In this community, the clitoris part of a woman's vagina is also known as '*haraam ki boti*' or 'source of sin'. The idea behind cutting off this part is rooted in centuries of patriarchy - if a woman knows the pleasure she can receive through it, she might go 'astray' in marriage, or bring 'shame' to the community.

According to an online survey conducted by *Sahiyo*, an NGO that consults with the victims as well as members of the Dawoodi Bohra community and advises them against the practice, 80% of the 400 respondents admitted to being cut. One reason why *khatna* continues is because the Bohra high priest refuses to engage on the issue either with the women or the media.

In 2016, an Australian court sentenced three Dawoodi Bohras to 15 months in jail under the country's female genital mutilation law. Three months after the verdict, Bohra community authorities issued a notice to all Bohras in Australia asking them to obey the law of the land and stop the practice of *khatna* or female circumcision.

The first legal battle against *khatna* in India began in May 2017 when the Supreme Court of India admitted a public interest litigation (*Ms. Sunita Tiwari vs. UOI & Ors.*) which challenged the practice on the basis that it violates the security of the person, the right to privacy, bodily integrity and the freedom from cruel, inhumane or degrading treatment. The Court sought response from the Central government and four state governments - Gujarat, Maharashtra, Rajasthan and Delhi - to the petition. In July 2018, The Supreme Court has also added the states of Kerala and Telangana as parties to the matter.



On 30 July 2018, the Supreme Court said that the practice of female genital mutilation in the Dawoodi Bohra Muslim community violates Article 21 and Article 15 of the Constitution. *"It is violative of Article 21 of the Constitution as it puts the female child to the trauma of female genital mutilation,"* said the bench of former Chief Justice Dipak Misra, Justice AM Khanwilkar and Justice DY Chandrachud. The Centre told the court that it supports the petitioner's plea that FGM is a crime punishable under the Indian Penal Code (IPC) and the Protection of Children from Sexual Offences Act (POCSO Act).

In September 2018, the Dawoodi Bohra Women's Association for Religious Freedom made a plea in the Supreme Court, stating that FGM has been practised for centuries and is also an essential religious practice protected under the Constitution. The Supreme Court has referred the matter to a 5-bench Constitutional Bench.

In the absence of a direct legislation banning FGM, Section 3 & 5 (committing penetrative and aggravated penetrative sexual assault on a child) and 19 (reporting an offence) of the POCSO Act; and Section 324 (Voluntarily causing hurt by dangerous weapons or means) and 326 (Voluntarily causing grievous hurt by dangerous weapons or means) of the IPC can be invoked to report instances of FGM for the time being.







**This document is the first in a series of legal information fact sheets curated by iProbono on violence against women and girls.**

**While our fact sheets aim to provide a global perspective the focus of this document is the law in India.**

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