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RESEARCH ARTICLE

FEMALE GENITAL MUTILATION : THE UNTOLD STORY OF INDIA

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Abstract

Female Genital Mutilation is a human rights violation that is practised in India. The Bohra community uses it extensively. FGM/C is thought to be practised for non-medical or cultural reasons as well as to protect a woman's virginity before marriage by limiting her enjoyment of intercourse and to deter her from becoming disloyal to her husband after marriage. Hence, FGM/C not only violates the right to life and dignity but it also clearly violates the right to equality based on gender. The intent, purpose and impact of male and female circumcision are all distinct resulting in gender discrimination. Thus, it is pertinent to note that such cruelty is prevalent in India with female children aged 1 to 15 years being victims of Female Genital Mutilation.

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Introduction:-

Female Genital Mutilation is a term used to describe practices that include cutting or hurting the female genitalia for non-medical or cultural reasons. It is considered as a violation of human rights as well as the health and integrity of girls and women around the world. Female Khatna or female circumcision has been a common practice in this society for decades. The Dawoodi Bohra community in India performs it as a religious ritual. There is no established medical method for it and people of diverse nations and ethnicities execute it in an indecent manner according to their own customs. Although most societies believe that circumcision can be performed at any point between a girl's birth and puberty, it has been noticed that it is most commonly performed on girls under the age of five. Despite international and national efforts to end the practice, FGM/C continues to be practised in various regions of the globe. FGM/C has been performed on over 200 million girls and women worldwide. Mullanis or semi-religious women, traditional cutters or any woman with some experience perform it. Some families prefer to visit doctors as they become increasingly interested in a safe circumcision. Family members are usually involved in FGM/C decision-making, while the oldest women in the family are normally in charge of the ceremony's practical arrangements. According to an online survey conducted by Sahiyo, an NGO among Bohra women, 80 percent of the 400 respondents have gone through the khatna process. FGM/C has both immediate and long-term negative impacts on the victims' health and psychological well-being. The extent of the mutilation/cutting is proportional to the injury sustained. The victim is in excruciating pain because anaesthesia is rarely given during the surgery. Excessive bleeding, edoema and inflammation in the vaginal area, infection, urinary difficulties but even death are potential short-term health hazards. Chronic genital infections, recurring urinary tract infections, painful sexual intercourse, complications during pregnancy, labour and delivery, perinatal risks, and debilitating psychological consequences such as Post-traumatic Stress Disorder (PTSD) and depression are among the long-term consequences. FGM/C has a negative impact on the health and development of girls and women.

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Types of Female Genital Mutilation:-

FGM is divided into four categories by the World Health Organization:-

Type 1 :- Clitoridectomy is the first type which includes removing the clitoris in part or completely.

Type 2 :- Excision is type two and it entails partial or complete removal of the clitoris and labia minora as well as excision of the labia majora.

Type 3 :- Infibulation or narrowing of the vaginal entrance by forming a covering seal is the third type. Cutting and relocating the inner or outer labia with or without clitoris removal, creates the seal.

Type 4:- This category encompasses any additional non-medical treatments that injure the female genital area such as pricking, piercing, incising, scraping and cauterizing.

Laws relating to FGM/C:-

The Indian Penal Code, 1860, deals with many forms of violence against women in India (IPC). The focus of criminal law is on punishing the accused or offender of the offence. IPC section 319 to 326 deal with various degrees of harm including severe damage. Excessive bleeding (haemorrhage), genital tissue swelling, wound healing problems, injury to surrounding genital tissue, shock, and death are all immediate complications of FGM/C, according to the WHO, while long-term consequences include urinary problems, vaginal problems, menstrual problems, sexual problems and so on. Persons who engage in FGM/C may be prosecuted under the IPC.

Section 324 and 326 of the IPC, in particular, provide for imprisonment and fines for voluntarily causing hurt and voluntarily causing grievous hurt. R.K. Raghavan, former Director of the Central Bureau of Investigation (CBI) has stated that while FGM/C is not specifically an offence under the IPC, the police are required to lodge a case under Section 326 of the IPC in response to a complaint.

The Protection of Children from Sexual Offences Act of 2012 (POCSO Act) which covers penetrative sexual assault by any person on any child defines it as the insertion of any item into the vagina of the girl, among other things. It is well established precedent that sexual offences do not require total penetration. In fact, the term vagina encompasses labia majora, according to Explanation 1 of Section 375 IPC. FGM/C which involves the insertion of a sharp object into a child's vagina may be covered by Section 3 of the POCSO Act and Explanation 1 of section 375 of the IPC.

Fgm/C Is Not A Religious Practice:-

Genital mutilation is frequently associated with a rite of passage or entry into womanhood in many cultures. Religious requirements, tradition, custom and a desire to limit the girl's libido were determined to be the main reasons for the practise in a survey done among women of the Dawoodi Bohra community. In an online study of Dawoodi Bohra women, 56% stated they had to have FGM/C for religious reasons while 45% said it was to reduce sexual arousal. FGM/C is frequently rationalised by claiming that it protects women from sexual cravings and that it protects communities religious freedoms.

The Indian Constitution guarantees the right to freedom of religion and the freedom to govern religious issues under Article 25 and 26. Article 25 guarantees the individual right to religious freedom. However, such liberty is limited by the provisions of Part III of the Indian Constitution which protect fundamental rights including the right to equality and non-discrimination based on gender as provided by Article 14 and 15 of the Indian Constitution. Such liberty is constrained by public order, morality and health.

Even if FGM/C is considered as a religious practise for the purpose of argument, it is not protected under Article 25 of the Indian Constitution because it breaches Article 14, 15, and 21 of constitution of India.

Female genital mutilation aims to suppress female sexual impulses and has negative health consequences. Women and girls are viewed as objects with sexual appetites that must be stifled in order to keep them from being abused by other men. Such practises are unconstitutional since they gender stereotype women and girls infringing on their fundamental rights as guaranteed by Articles 14 and 15 of the Indian Constitution. Women are victimised and their rights to physical autonomy control over their own bodies and protection from physical violence and mental trauma are violated when such practises are carried out in the name of religion. As a result, they are infringing on their right to life as provided by Article 21 of the Indian Constitution.

Law must be enacted to criminalize FMG/C:-

The practise of female genital cutting needs to be criminalized in India. Highly educated people who relate FGM/C with religion also engage in the practise. As a result, India must adhere to tight guidelines. The government must take the appropriate efforts to raise public awareness and educate individuals about the procedure's health repercussions. A thorough piece of law must be enacted that criminalizes the practise and punishes medical professionals who engage in it. Females must be protected from inhumane abuse that compromises their bodily integrity and health.

Conclusion:-

Although it has been shown that Indian law contains provisions for criminal action against any sort of harm, there is no specific mention of FGM/C in our legislation and the practise is mostly overlooked. It has also been observed that a specific law dealing with the problem which handles not only prosecution but also prevention, education, awareness building, alleviation and rehabilitation has become important on a global scale. Hence, it is clear that a distinct law on FGM/C is required for identical reasons namely to highlight the problem and confront it as a damaging criminal behavior rather than an acceptable religious practise.

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