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Beyond Silence: Female Genital Mutilation in India and the Quest for Legal Recognition

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ABSTRACT

Female genital mutilation (FGM) persists as one of the gravest violations of the bodily integrity, dignity, and autonomy of women and girls, affecting more than 230 million worldwide. This article situates FGM not as a cultural or religious question but as a human rights crisis demanding legal and social response. It surveys the international and regional legal architecture, including CEDAW, the Convention on the Rights of the Child, the Convention against Torture, the Maputo Protocol, and the United Kingdom's Female Genital Mutilation Act 2003, alongside leading judicial decisions from the ECOWAS Court, Kenya, and the United Kingdom. It then turns to India, where the practice, known as khafz, endures within the Dawoodi Bohra community despite the absence of a specific prohibitory statute, and examines the pending litigation in Sunita Tiwari v. Union of India. The article argues that eradicating FGM requires legislation reinforced by survivor-led advocacy, community education, and cultural change.

Keywords: *Female genital mutilation, FGM, Dawoodi Bohra, khafz, bodily integrity, human rights, Sunita Tiwari v. Union of India, POCSO Act, Maputo Protocol, gender-based violence*

I. INTRODUCTION

Many practices that have persisted in society for centuries are not merely harmful but also demeaning to women, ranging from forced marriage and domestic violence to the denial of education and economic independence and accusations of witchcraft. Female genital mutilation (FGM) is one of the most painful examples of how tradition and gender inequality can combine to harm women and girls. It is a custom passed down across generations, rooted in cultural and patriarchal beliefs that prize conformity over compassion. Across many regions of Africa, the Middle East, and Asia, and even within migrant communities in Western countries, millions of women and girls have been subjected to this act in the name of purity, modesty, or social acceptance. Behind these claims lies a harsh reality: FGM is a form of violence that causes

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irreversible physical pain, deep psychological trauma, and lifelong emotional scars. It robs women of their dignity, their autonomy, and their right to live free from harm.

Despite decades of global advocacy and strong legal measures, the practice continues. It frequently takes place in private and is defended as a sacred or essential tradition. A recent UNICEF report indicates that more than 230 million women and girls worldwide have undergone FGM, with an increasing number of procedures being performed by medical professionals.¹ This medicalisation of violence is disturbing, as it reflects the normalisation and acceptance of the practice within certain societies, even under the guise of safety.

This article examines FGM from a perspective that goes beyond culture, treating it as a human rights crisis that demands empathy and action. It explores the history and persistence of the practice, the international and national legal responses to it, and the experience of it in India, particularly within the Dawoodi Bohra community. The discussion emphasises that ending FGM is not merely a matter of legislation but also a matter of changing hearts and minds, so as to build a world in which every girl can grow up safely, is respected, and enjoys full control over her body, her mind, and her future.

II. UNDERSTANDING FEMALE GENITAL MUTILATION: A GLOBAL CRISIS

Female genital mutilation, also known as female genital cutting, is a grave violation of human rights that affects the lives of millions of women and girls across the world, mainly in parts of Africa, the Middle East, and Southeast Asia. The World Health Organization defines female genital mutilation as all procedures that involve the partial or total removal of the external female genitalia, or other injury to the female genital organs, for non-medical reasons.² It is often practised on young girls from infancy to the age of fifteen, and adult women are also subjected to it, with and without consent. The practice yields no health benefit; rather, it harms the body, resulting not only in immediate physical pain but also in serious long-term psychological, emotional, and physical consequences, including chronic pain, complications during childbirth, and infertility.³

According to the United Nations Children's Fund (UNICEF), an estimated 230 million girls and women have undergone female genital mutilation across thirty-one countries in Africa, the Middle East, and Asia.⁴ Diaspora communities in Europe, North America, and Australia have

¹ UNICEF, *What Is Female Genital Mutilation?*, UNICEF (last visited June 26, 2026).

² WORLD HEALTH ORGANIZATION, *Female Genital Mutilation*, <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation> (last visited June 15, 2026).

³ *Id.*

⁴ *Id.*

also reported cases. Given the scale of the practice worldwide, the United Nations' commitment to upholding, promoting, and protecting the human rights of every individual is placed in question, for these practices are severe violations of human rights that curtail the freedom of the women and girls subjected to them.⁵

The World Health Organization's 2025 data show that one in four cases of FGM, involving 52 million women and girls, were carried out by health professionals, especially in countries such as Egypt and Sudan.⁶ A 2023 study found that more than 60% of doctors in FGM-practising areas of India were unaware of the potential for prosecution under existing criminal laws.⁷ In response, the World Health Organization updated its guidelines in 2025, requiring all health workers to refuse to perform medicalised procedures. Health workers must be trained to screen for risk, report suspected cases, and provide comprehensive care, including deinfibulation and psychological support.⁸

The World Health Organization has classified female genital mutilation into four major types:⁹ Type 1 is the partial or total removal of the clitoral glans, that is, the external and visible part of the clitoris, and/or the clitoral hood.

Type 2 is the partial or total removal of the clitoral glans and the labia minora, with or without removal of the labia majora.

Type 3 is the narrowing of the vaginal opening through the creation of a covering seal, known as infibulation. The seal is formed by cutting and repositioning the labia minora or the labia majora, sometimes through stitching.

Type 4 includes all other harmful procedures performed on the female genitalia for non-medical reasons.

Although all types of female genital mutilation are associated with health complications, Type 3 is known to carry the greatest risk. A woman who has undergone Type 3 mutilation, infibulation, may later be forced to undergo deinfibulation.¹⁰

⁵ *Female Genital Mutilation (FGM)*, UNICEF, <https://data.unicef.org/topic/child-protection/female-genital-mutilation/>.

⁶ *One in Four Female Genital Mutilation Cases Now Carried Out by Health Workers*, UN NEWS (Apr. 28, 2025), <https://www.un.org/sustainabledevelopment/blog/2025/04/one-in-four-female-genital-mutilation-cases-now-carried-out-by-health-workers/>.

⁷ ORCHID PROJECT, *The Law and FGC: India* (Nov. 2024), [https://www.fgmcri.org/media/uploads/Country%20Research%20and%20Resources/India/india_law_report_v1_\(november_2024\).pdf](https://www.fgmcri.org/media/uploads/Country%20Research%20and%20Resources/India/india_law_report_v1_(november_2024).pdf).

⁸ *Supra* note 4.

⁹ *Supra* note 1.

¹⁰ *Cross-Border and Transnational Female Genital Mutilation*, U.N. GEN. ASSEMBLY, U.N. Doc. A/HRC/56/29 (July 17, 2024), <https://docs.un.org/en/A/HRC/56/29>.

III. LEGAL MILESTONES

In 2019, in *R v. N*, the United Kingdom secured its first successful prosecution under the Female Genital Mutilation Act 2003. A woman was convicted of the genital mutilation of her young daughter and, together with other charges, was sentenced to eleven years' imprisonment.¹¹

In the more recent case of *R v. Amina Noor* (2024), a thirty-nine-year-old woman, Amina Noor, was found guilty of assisting another person to carry out FGM on a British girl who had been taken abroad.¹²

In 2021, the High Court of Kenya declined to permit the circumcision of consenting adult women, holding that the practice confers no health benefit, diminishes women's well-being, adversely affects the body, and may even lead to death.¹³

In *Kaba v. Canada*, the husband of Ms. Kaba sent two excision practitioners to collect their daughter from school, an attempt that was prevented. Ms. Kaba then fled to Canada and claimed refugee status as a single woman and a victim of domestic violence.¹⁴ When the state moved to remove them to Guinea, the victim challenged the decision. The Committee held that deportation to Guinea would constitute a violation and urged the state to refrain from removing them.

In *Omo v. Secretary of State for the Home Department*, the appellant challenged the decision requiring her to leave the United Kingdom, claiming that she would be killed by her in-laws and that her daughter would be forced to undergo female genital mutilation. The court held that the appellant and her daughter should remain in the United Kingdom.¹⁵

IV. FEMALE GENITAL MUTILATION AS A VIOLATION OF HUMAN RIGHTS

Female genital mutilation is globally recognised as a gross violation of human rights, fundamentally incompatible with the principles of dignity, equality, and bodily integrity. The procedure involves altering or harming the female genitalia for non-medical purposes and stems from social, cultural, or customary beliefs. FGM leaves permanent physical and psychological marks, and its continuation reflects entrenched gender inequalities. A number of global treaties, conventions, and regional accords categorically affirm that FGM constitutes a grave human rights abuse. These instruments strongly condemn and prohibit the practice, recognising the deep physical, emotional, and social harm it causes to women and girls. They also stress that

¹¹ *R v. N* (Cent. Crim. Ct. Feb. 1, 2019).

¹² *R v. Noor* [2024] EWCA (Crim) 714.

¹³ *Tatu Kamau v. Attorney General* [2021] KEHC 450 (KLR).

¹⁴ *Diene Kaba v. Canada*, 2010 SCC OnLine HRC 40.

¹⁵ *Omo v. Secretary of State for the Home Department*, PA/03161/2019 (2021).

governments have a definite role to play in preventing FGM, protecting the vulnerable, and punishing those who carry it out and those who facilitate it. The principal rights affected by FGM are examined below with reference to international instruments.

A. Right to health

The right to health is regarded as an essential component of human rights. As the Constitution of the World Health Organization provides, “Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”¹⁶ Because FGM violates physical health and inflicts mental anguish on women and girls, it constitutes a grave violation of this right.

Article 12 of the International Covenant on Economic, Social and Cultural Rights, 1966,¹⁷ and Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, 1979,¹⁸ provide that States Parties recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The highest attainable standard is subject to the economic capacity of the State; this does not mean that everyone must be healthy but rather that governments must take active steps to create conditions for good health and access to medical care.

Articles 2(f) and 5(a) of the Convention on the Elimination of All Forms of Discrimination against Women, 1979, place a clear and binding responsibility on States Parties to take comprehensive and effective measures to eradicate all forms of discrimination against women.¹⁹ In the context of FGM, these provisions require States not only to prohibit such harmful practices through legal frameworks but also to implement educational and social initiatives that transform the cultural attitudes sustaining them, thereby ensuring women's full enjoyment of their right to health and bodily integrity. This was recently upheld by the ECOWAS Court in *Forum Against Harmful Practices and Others v. Republic of Sierra Leone*, in which the court held that FGM contravenes the rights to health and bodily integrity, rejecting cultural relativism.²⁰ The ruling declared that traditional justifications for FGM are legally

¹⁶ CONSTITUTION OF THE WORLD HEALTH ORGANIZATION, WORLD HEALTH ORGANIZATION, <https://www.who.int/about/governance/constitution> (last visited Oct. 13, 2025).

¹⁷ International Covenant on Economic, Social and Cultural Rights art. 12, Dec. 16, 1966, 993 U.N.T.S. 3.

¹⁸ Convention on the Elimination of All Forms of Discrimination against Women art. 12, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹⁹ Convention on the Elimination of All Forms of Discrimination against Women arts. 2(f), 5(a), Dec. 18, 1979, 1249 U.N.T.S. 13.

²⁰ *Forum Against Harmful Practices and Others v. Republic of Sierra Leone*, ECW/CCJ/JUD/40/25, [2025] ECOWAS CJ 33 (July 8, 2025).

untenable where the practice results in physical disfigurement and lasting trauma, thereby violating international law.²¹

B. Freedom from torture and other cruel, inhuman or degrading treatment

The right to freedom from torture and other cruel, inhuman or degrading treatment is a cornerstone of humanitarian law. This principle is affirmed in several international and regional treaties and covenants, which recognise its violation as a gross breach of human rights. States therefore have an obligation not only to refrain from engaging in or endorsing such treatment but also to actively implement measures to eradicate it within their territories.

Article 5 of the Universal Declaration of Human Rights,²² Article 7 of the International Covenant on Civil and Political Rights, 1966,²³ and Article 1 of the Convention against Torture²⁴ cumulatively provide that no individual shall be subjected to acts causing severe physical or mental suffering, regardless of any cultural, religious, or customary basis.

FGM is an act that causes deliberate suffering, trauma, and irreparable harm to women and girls who are subjected to coercive social standards. Because it is severe, deliberate, and gender-based, it has generally been classified as torture by United Nations authorities, including the Committee against Torture and the Special Rapporteur on Violence against Women.²⁵ In the landmark ruling in *Forum Against Harmful Practices and Others v. Republic of Sierra Leone*, the ECOWAS Court of Justice declared that FGM constitutes torture.²⁶ The court found Sierra Leone responsible for violating the rights of women and girls by failing to ban the practice, and, relying on international and regional treaties including Article 7 of the ICCPR, it held that the intense and lasting physical, psychological, and social harm caused by FGM clearly exceeds the threshold of torture.²⁷ This decision firmly refutes any cultural or traditional justification for the practice. Similarly, in *Zabayo and E v. Netherlands*, the Human Rights Committee stated that subjecting a woman or girl to genital mutilation amounts to treatment prohibited under Article 7 of the ICCPR.²⁸

²¹ Lakshita Kanhiya, *Feminists Achieve Landmark Ruling on Female Genital Mutilation in Sierra Leone*, HEINRICH BOLL STIFTUNG (last visited Oct. 14, 2025), <https://www.boell.de/en/2025/09/30/feminists-achieve-landmark-ruling-female-genital-mutilation-sierra-leone>.

²² Universal Declaration of Human Rights art. 5, G.A. Res. 217A (III) (Dec. 10, 1948).

²³ International Covenant on Civil and Political Rights art. 7, Dec. 16, 1966, 999 U.N.T.S. 171.

²⁴ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 1, Dec. 10, 1984, 1465 U.N.T.S. 85.

²⁵ *UN Treaties on Violence Against Women*, THE ADVOCATES FOR HUMAN RIGHTS, https://www.stopvaw.org/convention_against_torture_and_other_cruel_inhuman_or_degrading_treatment_or_punishment_cat_2 (last visited Oct. 15, 2025).

²⁶ *Forum Against Harmful Practices and Others v. Republic of Sierra Leone*, ECW/CCJ/JUD/40/25 (2025).

²⁷ Deborah Sorie, *ECOWAS Court Delivers Ruling Against ECOWAS Chairman Bio's Government*, SIERRALOADED (last visited Oct. 15, 2025), <https://sierraloadead.sl/africa/ecowas-court-sierra-leone-violated-rights-fgm/>.

²⁸ *Zabayo and E v. Netherlands*, CCPR/C/133/D/2796/2016.

C. Bodily integrity

In human rights discourse, the idea of bodily integrity is fundamental to the concept of personal autonomy. It affirms the inviolability of each person's physical body and the fundamental right of individuals to make decisions about their own bodies without interference, coercion, or injury of any kind. Because it involves the forcible alteration and damage of the female genital organs without informed consent, FGM is a blatant breach of bodily integrity; it deprives survivors of their bodily autonomy and results in psychological distress, permanent suffering, and impairment. This core principle is enshrined in instruments such as Article 3 of the Universal Declaration of Human Rights²⁹ and Articles 6 and 7 of the International Covenant on Civil and Political Rights.³⁰ Other international instruments that affirm the right to bodily integrity include the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and regional instruments such as the African Charter on Human and Peoples' Rights and the Maputo Protocol, which require States to prohibit and prevent harmful practices such as FGM. In *R.B.A.B. and Others v. Netherlands*, the Committee found that returning children to countries where FGM is common would violate their right to bodily integrity and could amount to inhuman treatment. The decision emphasised the importance of protecting children's bodies and health, stressing that States have a responsibility to prevent such harm.

D. Protection of the rights of the child

Children are the foundation of future generations; accordingly, States are under an obligation to protect them from all forms of violation. To this end, the international community, through the United Nations, framed the Convention on the Rights of the Child (CRC), adopted in 1989 with the objective of providing comprehensive protection and well-being for every child. It established a global legal framework requiring States to safeguard children from all forms of physical and mental violence, abuse, neglect, and harmful traditional practices. Article 19 of the CRC obliges States to undertake all necessary legislative and social measures to ensure that children are safeguarded against violence and abuse,³¹ while Article 24 provides for the right of the child to the highest attainable standard of health and obliges States to abolish traditional practices harmful to the health and well-being of children.³² The protection of children's rights is affirmed not only by international bodies but also by regional authorities. In *A Local Authority*

²⁹ Universal Declaration of Human Rights art. 3, G.A. Res. 217A (III) (Dec. 10, 1948).

³⁰ International Covenant on Civil and Political Rights arts. 6, 7, Dec. 16, 1966, 999 U.N.T.S. 171.

³¹ Convention on the Rights of the Child art. 19, Nov. 20, 1989, 1577 U.N.T.S. 3.

³² Convention on the Rights of the Child art. 24, Nov. 20, 1989, 1577 U.N.T.S. 3.

v. M, the court issued a Female Genital Mutilation Protection Order under the Female Genital Mutilation Act 2003 to prevent a girl from being taken abroad for FGM.³³ The court affirmed that protecting a child's physical integrity and best interests justified such orders under Article 3 of the ECHR, reflecting positive State obligations to prevent FGM.³⁴

E. Non-discrimination

The principle of non-discrimination in international law is a cornerstone human rights standard requiring equal treatment and prohibiting discriminatory differential treatment of individuals or groups on prohibited grounds, including sex, gender, race, ethnicity, religion, or social status. In the case of FGM, this principle is directly engaged, because FGM is a manifestation of gender-based discrimination rooted in entrenched inequalities and stereotypes concerning women and girls. International conventions such as CEDAW, the CRC, the Banjul Charter, and the Maputo Protocol clearly prescribe the right to freedom from discrimination on grounds of sex or gender. The High Court of Kenya, too, expressly characterised FGM as a form of gender-based violence and discrimination that violates constitutional and international mandates for equality and non-discrimination for women and girls.³⁵

V. REGIONAL INSTRUMENTS AND CHARTERS ADDRESSING FGM

While global conventions serve to strengthen human rights and eradicate FGM, several regional instruments further localise and reinforce these protections and work towards eliminating the practice within their respective regions. The legal fight against FGM was first anchored in Africa under the African Charter on Human and Peoples' Rights and was significantly bolstered by the subsequent Protocol to the African Charter on the Rights of Women in Africa (the Maputo Protocol). The Maputo Protocol is a foundational component of the regional human rights framework and contains specific provisions addressing FGM. It was adopted by consensus in 2003 by the heads of state of the African Union and entered into force in 2005.³⁶

Article 5(b) of the Maputo Protocol specifically prohibits all types of FGM and requires States to eradicate it by enacting legislation backed by sanctions.³⁷ The Protocol commits States Parties

³³ *A Local Authority v. M* [2018] EWHC 870 (Fam).

³⁴ *Female Genital Mutilation (FGM) Protection Orders*, GOV.UK, <https://www.gov.uk/government/publications/female-genital-mutilation-protection-orders-fgm700/female-genital-mutilation-fgm-protection-orders> (last visited Oct. 16, 2025).

³⁵ *African Union Lauds Kenya's Court Ruling Against Female Genital Mutilation*, AFRICAN UNION, <https://au.int/ar/node/40123> (last visited Oct. 16, 2025).

³⁶ Off. of the U.N. High Comm'r for Hum. Rts., *Cross-Border and Transnational Female Genital Mutilation*, U.N. Doc. A/HRC/56/29 (Apr. 18, 2024).

³⁷ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa art. 5(b), July 11, 2003, O.A.U. Doc. CAB/LEG/66.6 (entered into force Nov. 25, 2005).

to safeguard women and girls against harmful traditional practices and to provide assistance to survivors. Notwithstanding this progress, a number of African Union member States have yet to ratify the Protocol, including some with a high prevalence of FGM. The African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child have jointly issued General Comments emphasising the best interests of the child above cultural considerations and calling for the outright prohibition and enforcement of anti-FGM legislation.³⁸

The United Kingdom's Female Genital Mutilation Act 2003 criminalises FGM in England, Wales, and Northern Ireland, with a maximum sentence of fourteen years' imprisonment.³⁹ Importantly, it provides for extraterritorial jurisdiction, making it unlawful for British nationals or permanent residents to arrange or perform FGM on a girl overseas, thereby preventing girls from being taken out of the United Kingdom for the procedure. Further amendments, including those under the Serious Crime Act 2015, created the offence of failing to protect a girl under sixteen from FGM, introduced mandatory reporting duties for certain professionals, and established FGM Protection Orders for the protection of potential victims. The Act seeks to prevent all forms of FGM and to protect girls and women against this harmful practice.

VI. REFUGEES AND PROTECTION FROM FEMALE GENITAL MUTILATION

The problem of FGM does not stop at a country's borders. Many women and girls are forced to leave their homes and seek safety in other countries to escape the practice. International refugee law provides protection for such persons. The Convention Relating to the Status of Refugees, 1951, and its Protocol Relating to the Status of Refugees, 1967, clearly provide that people who face persecution or serious harm in their home country have the right to seek refuge in another country.

In recent years, many international bodies, including the United Nations High Commissioner for Refugees (UNHCR), have recognised that a fear of being subjected to FGM can be a valid ground for the grant of refugee status. This means that a woman or girl at risk of being forced to undergo FGM has the right to protection under international law.

Countries that have signed these agreements are required to ensure that their asylum and immigration systems take gender-based persecution into account. In practical terms, women and girls fleeing the threat of FGM should be treated as people escaping violence and abuse,

³⁸ *International and Regional Legal Frameworks on FGM*, COP FGM-MGF, <https://copfgm.org/international-and-regional-legal-frameworks-on-fgm/> (last visited Oct. 16, 2025).

³⁹ Female Genital Mutilation Act 2003, c. 31 (U.K.).

not as ordinary migrants. They must be provided with a safe place to stay, legal assistance, and protection from being returned to places where they might face the practice again.

VII. ENFORCEMENT CHALLENGES

Although the principal international instruments, including CEDAW, the CRC, the Maputo Protocol, the ICCPR, and the CAT, remain the foundation of worldwide efforts to combat FGM, converting their promises into real-world justice remains one of the most critical human rights challenges. These instruments not only forbid the practice but also oblige governments to protect victims and hold perpetrators accountable. Yet, although FGM is criminalised in many nations, legal enforcement often struggles against deep-seated cultural resistance and legal ambiguity. The key challenges are discussed below.

A. Cultural resistance

Of all the obstacles to enforcement, the most intractable is arguably found within culture, for in many societies FGM is regarded not as a crime but as a sacred rite of passage and a marker of belonging and purity, believed by some to rid a woman or girl of an inner evil. This entrenched belief system tends to silence victims and shield perpetrators. Women and girls who oppose the practice may be socially ostracised or even physically attacked, as families fear destroying traditions established over generations. For example, even with legal prohibition in Kenya and Sudan, FGM persists in secret, sustained by local silence and community coercion.⁴⁰

B. Medicalization

Another disturbing trend is medicalisation, in which medical personnel perform FGM under the illusion that doing so renders the practice safer. Egypt has witnessed increasing numbers of doctors and nurses performing FGM, a contradiction that makes justice more difficult to secure. When healing professionals become those who cause harm, the boundaries of legality and ethics are blurred.

The World Health Organization and the UNFPA have strongly opposed the medicalisation of FGM, emphasising that the practice confers no benefit and remains a violation of human rights regardless of the setting in which it is performed.⁴¹

C. Extraterritoriality

⁴⁰ *Female Genital Mutilation: Freeing African Women from the Shadow of the Knife*, GLOBAL CAMPUS OF HUMAN RIGHTS, <https://www.gchumanrights.org/preparedness/female-genital-mutilation-freeing-african-women-from-the-shadow-of-the-knife/> (last visited Oct. 17, 2025).

⁴¹ *Do No Harm: Joint Statement Against the Medicalization of Female Genital Mutilation in Asia-Pacific*, WORLD HEALTH ORGANIZATION (Oct. 8, 2025), <https://www.who.int/southeastasia/news/detail/08-10-2025-do-no-harm-joint-statement-against-the-medicalization-of-female-genital-mutilation-in-asia-pacific-a-call-to-action>.

As globalisation becomes more widespread, some families take girls outside their country to undergo FGM where laws are weaker or unenforced. To counteract this, nations such as the United Kingdom and France have enacted extraterritorial legislation, enabling them to prosecute citizens or residents who perform FGM abroad. This legal innovation holds promise but is difficult to apply. Cross-border investigations require collaboration among many governments, and evidence is hard to obtain. Recent United Kingdom cases have led to convictions, but they required years of painstaking investigation, witness protection, and coordination between countries. These cases show that global justice is not merely a matter of law on the books; it depends on building the actual capacity to trace and establish crimes that span national borders.

D. Legal loopholes

Some countries have robust laws, while others continue to operate in legal grey areas. India, for instance, has no clear national prohibition on FGM, and regulation remains dispersed across child protection and health legislation. This confuses victims and prosecutors alike and causes justice to be lost in translation. Without consistent and clear legal definitions and consequences, survivors cannot pursue redress, and perpetrators exploit the loopholes. Justice delayed in these cases is justice denied, and these gaps show that international treaties mean little if domestic institutions do not translate them into effective, accessible protections.

VIII. GLOBALIZATION AND TRANSNATIONAL ADVOCACY

Female genital mutilation is not merely a legal issue; it is a profoundly personal one. It is not only about cutting away part of the body but also about diminishing part of a person, her dignity, and her right to life. FGM marks the body, scars the future, and often silences the voice. Globalisation has amplified both the urgency and the complexity of responding to this practice. FGM is not only a health issue; it is a deeply entrenched form of gender-based violence affecting more than 200 million women and girls worldwide. Once seen as a local tradition, FGM has become a global concern, owing to migration, digital media, and the tireless work of survivors, activists, and advocates who refuse to let silence prevail. For years, it was whispered about in kitchens, carried out in back rooms, and justified as tradition, but globalisation has broken the silence.

This section discusses how globalisation has strongly influenced FGM and how transnational advocacy has advanced the fight against it.

Cross-border FGM is an urgent and deeply troubling issue in international law and human rights advocacy. It involves girls and women being taken, sometimes willingly but often under

pressure or coercion, across national borders to undergo FGM in places where the practice remains legal or weakly enforced. For example, in a well-known Mali–France case of 2024, a Malian mother living in France arranged for her young daughters to undergo female genital mutilation during a visit to relatives in Mali.⁴²

This cross-border movement not only circumvents national laws designed to protect victims but also exposes the gaps in global accountability. It is a stark reminder that legal protections mean little without coordinated international action. To truly safeguard the rights and dignity of those at risk, stronger transnational cooperation, harmonised legal frameworks, and community-driven efforts that prioritise survivor voices and cultural transformation are required.

Cross-border FGM often unfolds in regions where communities are bound together by shared ethnic, linguistic, and cultural ties that stretch across national borders. In East Africa, for example, families and communities in Kenya, Uganda, Tanzania, Ethiopia, and Somalia sometimes collaborate to organise cutting ceremonies just across a border, where laws may be looser or enforcement less strict. These journeys are not merely physical; they reflect a painful navigation between tradition and law, often driven by fear, pressure, or deeply held beliefs. Porous borders and weak surveillance make it easier to evade the law, while familial networks quietly enable the practice. For the girls involved, this can mean being taken beyond the protection of one country's laws and subjected to harm in another. One of the most troubling forces behind cross-border FGM is the uneven enforcement of laws between neighbouring countries. When one nation strengthens its protections by criminalising FGM and increasing penalties, families sometimes respond not by abandoning the practice but by crossing borders to places where enforcement is weaker or non-existent. In East Africa, this has given rise to what some policymakers grimly call “cutting tourism”: families deliberately travelling to evade prosecution and ensure that the ritual continues. It is a painful reminder that laws alone are not enough. Without regional solidarity, community education, and survivor-led advocacy, justice remains patchy and fragile, leaving the most vulnerable at risk.⁴³

Migration does not merely involve the movement of people; it can also carry harmful practices across borders. FGM, for instance, has been documented in countries such as the United States, the United Kingdom, and Australia, where it is sometimes performed within diaspora

⁴² Off. of the High Comm'r for Hum. Rts., *UN Report Urges Concerted Global Action to Tackle Cross-Border and Transnational Female Genital Mutilation*, OHCHR (June 14, 2024), <https://www.ohchr.org/en/press-releases/2024/06/un-report-urges-concerted-global-action-tackle-cross-border-and>.

⁴³ UNITED NATIONS POPULATION FUND, *Beyond the Crossing: Female Genital Mutilation Across Borders* (2020), <https://www.unfpa.org/publications/beyond-crossing-female-genital-mutilation-across-borders>.

communities, particularly among those with Somali and Sudanese roots. Despite living in nations with strong legal protections, some families continue the practice, often during trips back to their countries of origin or in secrecy. This transnational persistence of FGM highlights the urgent need for coordinated global and local efforts to protect girls, regardless of where they live.

On one hand, some families migrate to other countries to avoid prosecution for carrying out the practice; on the other, many migrate to protect their daughters from the bodily harm they themselves once endured.

Numerous global efforts to end FGM have been made, reflecting a powerful, collective commitment to protecting the rights and dignity of girls and women. This movement brings together international organisations, national governments, grassroots NGOs, and advocacy groups, each playing a vital role. Together, they work to eliminate FGM through a blend of strategies: shaping policy, raising awareness, enforcing laws, and engaging directly with communities. It is not just about changing legislation; it is about changing hearts, minds, and cultural norms to ensure that every girl grows up free from harm.

International organisations and agencies such as UNICEF and the World Health Organization play a pivotal role in combating FGM. UNICEF's extensive groundwork in educating people about this practice and advocating against it has been a significant step.

One of the key initiatives in the global fight against FGM is the Global Strategy to Stop Health-Care Providers from Performing Female Genital Mutilation, developed by the World Health Organization in partnership with other UN agencies. This strategy addresses the alarming rise in the medicalisation of FGM, a trend in which the procedure is carried out by doctors, nurses, or other health professionals. Although often framed as a safer alternative, such medical involvement dangerously legitimises a practice that remains deeply harmful and unethical. The strategy calls on health-care systems to reject FGM in all forms, uphold medical ethics, and become allies in protecting girls and women from this violation of their rights.

Global campaigns such as #EndFGM and the International Day of Zero Tolerance for Female Genital Mutilation, observed every year on 6 February, have become powerful platforms for change.⁴⁴ They do more than raise awareness; they spark conversations, mobilise resources, and unite people across borders in a shared commitment to end the practice. Through social media, public events, and educational outreach, these movements reach diverse audiences, from

⁴⁴ *International Day of Zero Tolerance for Female Genital Mutilation*, UNITED NATIONS (Feb. 6, 2025), <https://www.un.org/en/observances/female-genital-mutilation-day>.

policymakers to parents and from survivors to students, encouraging everyone to stand up for zero tolerance. At their heart, these campaigns amplify the voices of those most affected and remind the world that protecting girls and women is a collective responsibility.

The global movement to end FGM has been shaped by decades of advocacy, legal reform, and survivor-led resistance. It began gaining international recognition in 1979, when the World Health Organization held a landmark seminar in Khartoum, marking the first time FGM was acknowledged as a serious health concern. This opened the door to deeper conversations about the physical and emotional toll of the practice.

In 1994, the Cairo ICPD Programme of Action reframed FGM as a violation of women's reproductive rights, emphasising that it was not merely a health issue but a denial of autonomy and dignity. A year later, the Beijing Platform for Action linked FGM to global gender inequality, urging governments to confront harmful traditions that perpetuate violence against women and girls.

By 2008, the World Health Organization had led an interagency statement with other UN bodies, uniting their voices to condemn FGM and to call for coherent policies across health, education, and justice systems. That same year, the UNFPA–UNICEF Joint Programme launched a community-driven initiative that continues today, helping families abandon FGM through education, alternative rites of passage, and survivor support.

In 2012, the UN General Assembly adopted a resolution that elevated the fight against FGM to a universal human rights commitment. It called on every country to act, not only through laws but also through compassion, solidarity, and cultural change.

These milestones reflect a growing global understanding that ending FGM requires more than policy; it demands empathy, courage, and collective action. From Khartoum to Beijing, and from UN halls to village gatherings, the movement is driven by those who believe that every girl deserves to grow up free from harm, with her body and future intact.

IX. FGM: THE INDIAN STORY

In India, FGM is most commonly practised within the Dawoodi Bohra community, where estimates suggest that between 75% and 85% of women have undergone the procedure.⁴⁵ Known locally as *khafd* or *khafz*, it typically takes place when girls are only six or seven years old, often too young to understand what is happening to them. It is most prevalent in states such

⁴⁵ *Key Findings: India*, FGM/C RESEARCH INITIATIVE, <https://www.fgmc.org/country/india/> (last visited June 25, 2026).

as Gujarat, Maharashtra, Madhya Pradesh, and Rajasthan, where cultural and familial traditions continue to sustain the ritual despite growing awareness of its harm.

While FGM is not widely documented among other Indian communities, there have been reports of smaller-scale occurrences among the Sulaimani Bohras and some Sunni groups in Kerala. However, comprehensive national data remain scarce, making it difficult to grasp the full extent of the issue across the country.

The term “Bohra” originates from the Gujarati word for trader, reflecting the community's historical roots in commerce. Over time, the Dawoodi Bohra community gradually settled in Surat, with a presence there dating back around 150 years. Known for its strong adherence to tradition, the community has maintained a distinct cultural and religious identity that has remained largely unchanged despite the evolving social landscape of modern India.

The Dawoodi Bohras are a close-knit group, with membership typically determined by birth rather than conversion. Entry into and exit from the community are rare, and intermarriage, especially with those outside the Bohra fold, including other Muslim sects, is generally discouraged. This emphasis on internal cohesion is also reflected in their religious practices, as Bohra places of worship are separate from those of other Muslim communities, underscoring their distinct spiritual customs.

While this deep commitment to tradition fosters a strong sense of belonging and continuity, it also raises questions about how the community navigates broader societal change. Understanding the Bohra community requires a nuanced lens, one that respects its cultural heritage while engaging with conversations around inclusion, reform, and evolving interpretations of faith in a pluralistic society.

It is troubling that a community known for its educational achievements and economic prosperity continues to uphold the practice of FGM. Despite access to knowledge and resources, the ritual is still imposed on young girls, often as a compulsory tradition, regardless of the physical pain and emotional trauma it causes. The procedure, typically carried out in early childhood, leaves lasting scars that extend far beyond the body. What is most troubling is that this harm is often justified through inherited customs that lack any medical or ethical grounding. Such traditions, though deeply rooted, must be questioned, especially when they compromise a child's right to safety, dignity, and bodily autonomy. Ending FGM requires not only legal reform but also courageous conversations within communities, led by survivors, scholars, and faith leaders who believe that compassion must guide culture.

Behind these statistics are real stories: of girls whose bodies were altered without consent, of women who carry the physical and emotional scars, and of families navigating the tension between tradition and change. Ending FGM in India requires not only legal reform but also open dialogue, survivor-led advocacy, and community education that honours faith while protecting dignity and bodily autonomy.

India's legal system currently lacks a specific law that explicitly bans FGM, leaving many girls vulnerable and generating ongoing legal and societal debate. The issue came into sharp focus through a landmark public interest litigation filed by the human rights advocate Sunita Tiwari, who urged the Supreme Court to outlaw the practice. In response, the Court acknowledged that FGM violates some of the most fundamental rights enshrined in the Constitution, namely Articles 21, 14, and 15. It also recognised that FGM strips girls of their right to privacy and bodily integrity, rights that are deeply personal and non-negotiable.

Importantly, the Court observed that FGM constitutes a criminal act under existing laws, including the Indian Penal Code and the Protection of Children from Sexual Offences (POCSO) Act, 2012, regardless of claims that it is a religious obligation protected under Articles 25 and 26. In *Sunita Tiwari v. Union of India*, the Court grappled with the tension between religious freedom and the constitutional rights of women and girls.⁴⁶ While the Dawoodi Bohra community defended the practice as a benign ritual, the Court recognised its lasting physical and psychological harm, including infection, trauma, and lifelong complications. The matter was referred to a larger Constitution Bench to determine its legal status, with the Court affirming the primacy of women's dignity and autonomy.

Former Chief Justice Dipak Misra condemned FGM as a practice that subjects the female child to trauma, and emphasised that laws must protect human rights even where they do not criminalise every social evil.⁴⁷ The Court directed several states to report on the prevalence of FGM, signalling active monitoring. The Attorney General also supported a ban, citing global precedents and the World Health Organization's classification of FGM as a grave human rights violation.

Chief Justice B.R. Gavai likewise expressed grave concern, observing that threats such as FGM remain prevalent in society and deny young girls their fundamental rights.⁴⁸

⁴⁶ *Sunita Tiwari v. Union of India*, Writ Petition (Civil) No. 286 of 2017 (India).

⁴⁷ *Female Genital Mutilation Violates Bodily Integrity: Supreme Court*, NDTV (Sept. 24, 2018), <https://www.ndtv.com/india-news/female-genital-mutilation-violates-bodily-integrity-supreme-court-1880654>.

⁴⁸ Dhananjay Mohapatra, *Many Girls Still Face Practices Like Genital Mutilation: CJI*, THE TIMES OF INDIA (Oct. 11, 2025), <https://timesofindia.indiatimes.com/india/many-girls-still-face-practices-like-genital-mutilation-cji/articleshow/124490387.cms>.

In the absence of explicit legislation, civil society has stepped in. Organisations such as Sahiyo are leading the effort, engaging communities, supporting survivors, and advocating for legal reform.⁴⁹ Their campaigns, both online and offline, amplify survivor voices, break the silence, and challenge cultural justifications. Although FGM continues in secrecy owing to social pressure, these efforts are reshaping narratives, building solidarity, and moving India closer to a future in which every girl is safe, respected, and free.

X. FACTORS COMPOUNDING FEMALE GENITAL MUTILATION

FGM is practised across many nations. According to the World Health Organization, it is carried out for various socio-cultural reasons that vary from one region and ethnicity to another.⁵⁰ FGM is mainly regarded as a tool of patriarchal regulation of female sexuality, often justified by cultural beliefs about purity, modesty, and marriageability; it reinforces gender hierarchies by controlling women's bodies and autonomy.

The exact origin of FGM remains unclear. Some scholars maintain that it originated in ancient Egypt, in present-day Sudan and Egypt, pointing to the discovery of circumcised mummies from the fifth century BC. Other scholars suggest that the practice spread along the routes of the slave trade; it was also performed on female slaves in ancient Rome to prevent sexual intercourse and pregnancy.⁵¹

FGM is often regarded as part of a community's tradition with historical roots; consequently, community members, including women, support and continue the practice as a mark of respect towards the culture and elders of the community. The ancient Egyptians regarded cutting as a demonstration of a woman's commitment to the men of society.⁵²

In many cultures, FGM is seen as an important rite of passage into womanhood and as a step towards being regarded as an adult woman. It is also often regarded as a social norm that women must observe to gain recognition in the community and to avoid harassment and exclusion.⁵³ In Kenya, women of the Rendille community undergo FGM for the purpose of social validation, while in the Kipsigis community, being circumcised is seen as being reborn.⁵⁴

⁴⁹ ORCHID PROJECT, *Sahiyo: Partnering to End Female Genital Cutting* (2024), <https://www.orchidproject.org/sahiyo/>.

⁵⁰ WORLD HEALTH ORGANIZATION, *Understanding Female Genital Mutilation (FGM)*, in CARE OF GIRLS & WOMEN LIVING WITH FEMALE GENITAL MUTILATION: A CLINICAL HANDBOOK 11–38 (2018).

⁵¹ J. Llamas, *Female Circumcision: The History, the Current Prevalence and the Approach to a Patient* 1–8 (Univ. of Va. Med. Sch. Working Paper, 2017).

⁵² *Id.*

⁵³ *Supra* note 9.

⁵⁴ *Supra* note 9.

FGM is also regarded as a sign of femininity, the uncut genitalia being considered masculine. It is associated with cleanliness and beauty. Women in Somalia are convinced that infibulation confers benefits, that smooth and dry genitalia are beautiful and preferable, and they often regard it as a source of pride.⁵⁵

It is also believed that FGM enhances fertility, on the assumption that a woman whose genitalia are not cut will be unable to conceive and will face difficulty in labour. It is further believed that contact between the supposedly toxic clitoris and a baby during childbirth is fatal to the baby.⁵⁶

Many women in Mali, Somalia, Egypt, Kenya, and Chad recoil from the idea of unmodified genitalia, regarding them as ugly, unrefined, undignified, and therefore not fully human.⁵⁷

Many communities regard FGM as a religious requirement, even though no major religious text mentions the practice.

Most Muslims who practise FGM perceive it as a Sunnah, an approved practice of the Prophet Muhammad, believing that women who are not cut are impure and unfit to perform Muslim prayers.

According to some faculty members of Al-Azhar University:⁵⁸

This act has no religious origin; it dates back only to inherited traditions and customs. The strongest evidence that it is not a religious duty for women is that the Prophet Muhammad did not circumcise his daughters.

This led the Sheikh of Al-Azhar to reconsider the relevant fatwas.

For many centuries, there have been reports of female genital mutilation in European nations. Interest in the practice began to grow in the 1860s, when Isaac Baker Brown, the founder of the London Surgical Home for Women, observed that female epileptics at his hospital had a tendency to masturbate. He concluded from this that masturbation caused hysteria, epilepsy, and finally “idiocy and death.” Brown believed that clitoridectomy was the only treatment for this path to “feminine weakness” and death, and this view became widely accepted, with masturbation treated as a disorder whose treatment was reserved for its most severe cases.⁵⁹

⁵⁵ Tobe Levin, *Female Genital Mutilation and Human Rights*, COMPARATIVE AMERICAN STUDIES 285, 287 (2003).

⁵⁶ *Supra* note 10.

⁵⁷ Richard A. Shweder, *What About “Female Genital Mutilation”? And Why Understanding Culture Matters in the First Place*, 129 DAEDALUS 209, 219 (2000).

⁵⁸ Shamsa Al Awar et al., *Prevalence, Knowledge, Attitude and Practices of Female Genital Mutilation and Cutting (FGM/C) Among United Arab Emirates Population* 1–12, 1.

⁵⁹ *Supra* note 10.

Sarah Rodriguez reached this conclusion after examining the practices of American obstetricians, which continued until the 1960s. Western FGM practices placed strong emphasis on the need to control female libido and to direct it towards ends other than women's own, namely marital duties and the avoidance of contraception. The beliefs that gave rise to FGM thousands of years ago, hygiene, purity, sexual restriction, and marital commitment, were closely mirrored in American doctors' justifications for the practice.⁶⁰

XI. CONCLUSION

Female genital mutilation is among the most serious human rights abuses of our time, a deep-rooted cultural tradition that continues to undermine the dignity, health, and self-determination of millions of women and girls. Although characterised by some as a matter of tradition or purity, it is in reality a systematic form of gender-based violence that entrenches inequality and inflicts physical harm. The international community has made significant gains through legal, medical, and educational frameworks, from the Maputo Protocol and CEDAW to national legislation such as the United Kingdom's Female Genital Mutilation Act 2003, yet enforcement remains uneven and cultural resistance persists. In India, the Dawoodi Bohra community's practice of *khafz* demonstrates that FGM is neither geographically nor religiously confined. The controversy being litigated in the Supreme Court highlights the tension between religious freedom and the right to bodily autonomy. Laws alone can prohibit FGM; they must be accompanied by community outreach, survivor advocacy, and education that dismantle the myths surrounding purity and womanhood.

Ultimately, the elimination of FGM requires international solidarity, a convergence of law, empathy, and cultural change. It calls on governments, civil society, and individuals alike to reaffirm that no custom can justify violence and that every girl and woman has the right to control her own body. The path to zero tolerance is not merely legal; it is ethical, cultural, and profoundly human, seeking to reclaim what FGM has for so long taken away: freedom, dignity, and equality.

⁶⁰ *Supra* note 10.