Sudan moves to criminalise Female Genital Mutilation

Part of: GS-II- International issues (PT-MAINS-PERSONALITY TEST)

Female genital mutilation is a deeply-rooted practice in Sudan and other countries in Africa, Asia and the Middle East, where it is traditionally seen as a way of curbing female sexual desire in order to reinforce conservative behaviour.

Sudanese officials said they are working to criminalise the widespread practice of female genital mutilation after the transitional government approved a landmark draft law. Under the proposed amendment to the criminal code, anyone found guilty of performing the procedure would be sentenced up to three years in prison.

What UN report says?

A 2014 report by the U.N. children’s agency estimated that 87% of Sudanese women and girls between the ages of 15 and 49 have been subjected to the procedure. The U.N. children’s agency also welcomed the efforts to outlaw the practice. This practice is not only a violation of every girl child’s rights; it is harmful and has serious consequences for a girl’s physical and mental health.

What it is?

Most undergo an extreme form known as infibulation, which involves the removal and repositioning of the labia to narrow the vaginal opening.

In context of India

FGM is practised by the Dawoodi Bohra, a sect of Shia Islam with one million members in India. In the community, FGM is performed on six- or seven-year-old girls in a form known as khatna or khafz involving the total or partial removal of the clitoral hood.

The spiritual leader of the Dawoodi Bohra, Syedna Mufaddal Saifuddin, has stated that male and female circumcision (respectively khatna and khafz) are required as "acts of religious purity". The term khafd is also used to describe the practice. Other Bohra sects including the Sulemani Bohras and the Alavi Bohras as well as some Sunni communities in Kerala, are reported as practising FGM.

Matter in Supreme Court

In May 2017 a public interest litigation (PIL) case was raised in India’s Supreme Court. The case was filed by Sunita Tiwari, a lawyer based in Delhi, seeking a ban on FGM in India. The Supreme Court received the petition and sought responses from four states and four ministries of the central government. An advocate for the petition claimed the practice violated children’s rights under Article 14 (Right to Equality) and Article 21 (Right to Life) of the Constitution of India. Female genital mutilation is performed "illegally upon girls (between
five years and before she attains puberty)" and is against the "UN Convention on the Rights of the Child, UN Universal Declaration of Human Rights of which is India is a signatory", the plea said, adding the practice caused "permanent disfiguration to the body of a girl child".

While an advocate opposing the petition argued that khafz is an essential part of the community's religion, and their right to practise the religion is protected under Articles 25 and 26. On August 28, 2018, the then CJI Dipak Mishra referred this matter to a five-judge bench. However, a bench has not yet been constituted to hear the matter in the apex court.

CONVENTION ON THE RIGHTS OF THE CHILD

The UN General Assembly adopted the Convention and opened it for signature on 20 November 1989 (resolution 44/25)

The United Nations Convention on the Rights of the Child' is an international statement of the civil, political, economic, social and cultural rights of children

Key highlights

The convention mentions the following rights of children

Guiding principles: General requirements for all rights

- **Definition of the child**: The convention mentions that **everyone under 18 years of age has all the rights in this convention**.
- **Application**: The convention applies to everyone whatever their race, religion, abilities, whatever they think or say, and whatever type of family they come from.
- **Protection of rights**: It also states that Every child has the right to life. Governments must take necessary steps to ensure that children survive and grow up well.
- **Respect for the views of the child**: Children have the right to say what they think in all matters that may affect them and to have their opinion taken into account

Survival and Development rights: The basic rights to life and achieving one’s full potential

- **Registration, name, nationality, care**: Children have the right to a legally registered name and nationality. They also have the right to know and, as far as possible, to be cared for, by their parents
- **Separation from parents**: Children should not be separated from their respective parents unless it is for their own good, for example, if a parent is abusing or neglecting a child. In the event of their parents getting separated, they have the right to stay in contact with both parents, unless this might harm them.
- **Refugee children**: If children have come into the country as refugees, then it is important that they have the same rights as children born here. Also adequate steps are to be taken to make sure that these children are reunited with their families, wherever possible.
- **Child with disability**: Every child with a disability has the right to live a decent life with dignity, independence and an active role in the community. They are entitled to special care and support to lead such a life.
• Right to education: Every child has the right to an education. Primary education must be free. Secondary education must be available to every child.

Protection Rights: Keeping safe from harm

• Protection from violence: Governments should ensure that children are properly cared for and protected from violence, abuse and neglect by their parents, or anyone else who looks after them.
• Child labour: The Government should protect children from work that is dangerous, or that might harm your health or education
• Detention: No child shall be tortured or suffer cruel treatment or punishment, while being detained for an offence. They can be arrested only as the last resort and that too for the shortest possible time and they are entitled to be in contact with their families during the detention period.

Participation rights: Having an active voice

• Freedom of association: Every child has the right to receive and to share information, to meet together and to join groups and organisations as long as it does not restrict the rights of others.
• Access to information from mass media: Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that they can understand, and should not promote materials that could harm them.