

THE LAW AND FGC

The Maldives

November 2024



About Orchid Project

Orchid Project is a UK- and Kenya-based non-governmental organisation (NGO) catalysing the global movement to end female genital cutting (FGC). Its strategy for 2023 to 2028 focuses on three objectives:

1. to undertake research, generate evidence and curate knowledge to better equip those working to end FGC;
2. to facilitate capacity-strengthening of partners, through learning and knowledge-sharing, to improve programme designs and impacts for the movement to end FGC; and
3. to steer global and regional policies, actions and funding towards ending FGC.

Orchid Project's aim to expedite the building of a knowledge base for researchers and activists is being fulfilled in the **FGM/C Research Initiative**.

About ARROW

The Asian-Pacific Resource and Research Centre for Women is a non-profit women's NGO with a consultative status with the Economic and Social Council of the United Nations and an observer status with the United Nations Framework Convention on Climate Change. Based in Kuala Lumpur, Malaysia, ARROW has been working since 1993 to champion women and young people's sexual and reproductive rights. ARROW occupies a strategic niche in the Asia-Pacific region and is a Global-South-based, feminist and women-led organisation that focuses on the equality, gender, health and human rights of women.

About Asia Network to End FGM/C

The Asia Network to End Female Genital Mutilation/Cutting (FGM/C) is a group of civil-society actors, led by Orchid Project and ARROW, working across Asia to end all forms of FGM/C. It does this by connecting, collaborating and supporting Asian actors and survivors to advocate for an end to this harmful practice.

Overview of National Legal Framework

X	Specific law/provision criminalising FGC
X	Provides a definition of FGM/C
✓	Criminalises the performance of FGC
✓	Criminalises the procurement, arrangement and/or assistance of acts of FGC
X	Obligation for medical and certain other professionals to report incidents of FGC to the authorities
X	Criminalises the participation of medical professionals in acts of FGC

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Orchid Project seeks updates on the data and invites comments on the content and suggestions as to how these reports can be improved.

Introduction

The Republic of Maldives is a South Asian country with a population of 575,000.¹ It is a presidential republic comprising 21 administrative atolls. The Maldives has an Islamic (Sharia) legal system with English common-law influences, primarily in commercial matters.

Islam is the state religion of the Maldives, and 98.4% are Muslims.² Being a Muslim is a requirement of citizenship.³

A Note on Terminology

The term most frequently used to refer to female genital cutting (FGC) in the Maldives is *sunnah*. 'Sunnah' and 'FGC' are therefore used interchangeably through this Law Report.

Female genital cutting is classified into four major types by the World Health Organization:

Type 1: This is the partial or total removal of the clitoral glans (the external and visible part of the clitoris, which is a sensitive part of the female genitals), and/or the prepuce/clitoral hood (the fold of skin surrounding the clitoral glans).

Type 2: This is the partial or total removal of the clitoral glans and the labia minora (the inner folds of the vulva), with or without removal of the labia majora (the outer folds of skin of the vulva).

Type 3: Also known 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 clitoral prepuce/clitoral hood and glans.

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.⁴

Prevalence of FGC

The Maldives is the only country of the South Asia cluster⁵ for which data on FGC has been collected by the Demographic and Health Surveys (DHS) Program. No survey has been carried out in the Maldives since 2016,⁶ but a DHS Working Paper (No. 187)⁷ more deeply analysing the findings of the DHS 2016–2017 data was published in September 2022.

In the Maldives, the prevalence of FGC in women aged 15–49 is 12.9%.⁸

The data suggest that the practice of FGC has significantly reduced over the past 50 years. 37.5% of women in the 45–49 age cohort have undergone the procedure, compared to only 1% of women aged 15–19.⁹

Also encouraging is that only 1.1% of the daughters (aged 0–14) of women surveyed by the DHS have been cut.¹⁰ However, although girls are usually cut before the age of five, girls and women may also undergo FGC at puberty or just before marriage.

No data has been captured by the DHS survey about the types of FGC practised in the Maldives, but anecdotal evidence suggests the major one would be classed as Type 4 – a number of small cuts or pricks to the girl’s genitals.¹¹

10.2% of Maldivian women who have heard of FGC believe it is required by their religion, 63.1% do not believe it is required, 2.6% believe it is unrelated to their religion, and 24.2% don’t know.¹²

Overall support for the discontinuation of FGC is relatively high, at 65.9% of women who have heard of the practice.¹³

National Legal Framework

Applicable General Laws

There is no specific law criminalising FGC in the Maldives. However, the performance of FGC potentially could be prosecutable under various provisions of general criminal law, depending on the circumstances and the degree of harm inflicted.

Protection of the Rights of Children Act, 2019¹⁴

Under the **Protection of the Rights of Children Act**, 'negligence' is defined at **Section 133(h)** to include any act or omission by the parents or guardians who have care of a child, which causes or is likely to cause physical or mental harm to that child.¹⁵

At **Section 133(n)**, 'physical violence' is defined as intentionally inflicting harm to any part of a child's body 'by use of an item' or by 'force'. Such harm includes 'lacerations, bruises, cuts, scars, fractures or other damages to bones, dislocation of joints, twists, bleeding, rupture of blood vessels, burns, blisters, a stop or change in physiological functioning or consciousness and damage to hair or teeth.'¹⁶

Under **Section 124(a) (Offence of neglecting a Child)**,

A person who has been entrusted with the duty to provide protection to a Child commits an offence when he deliberately commits an act that has a negative impact on the Child's health or safety or interest, or where the Child suffers harm due to his failure to take measures to prevent such an act from happening.

That person includes the mother, father, guardian or any other person who has been given the duty of care of that child (**Section 124[c]**).¹⁷

As FGC causes injury and harms a girl's genitals, the perpetrators, even those who are close family, could be prosecuted under this Act for performing FGC or having FGC performed on a girl.

Penal Code, 2014¹⁸

Under **Section 120 (Assault) of the Penal Code**, a person commits an offence of assault if they touch or injure another person without their consent, or puts them in fear of bodily injury. The offence of assault is graded either 'serious' (bodily injury with a dangerous weapon), 'injurious' (bodily injury) or 'simple' (all other assaults).¹⁹

'Bodily injury' is defined under **Section 17** as 'substantial physical pain, illness, or any impairment of physical condition.'²⁰

'Serious bodily injury' is defined as an injury that 'creates a substantial risk of death or causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.'²¹

FGC Type 4 is likely to fall into the categories of 'injurious' or 'simple' assault, although if loss or impairment of the clitoral organ is caused by cutting, that might be considered an assault leading to serious bodily injury.

Gender Equality Act, 2016²²

Article 14 of the Gender Equality Act states that any violence toward women shall be considered gender-based discrimination. Gender-based violence against women includes domestic violence (as defined in the **Domestic Violence Act of 2012** – see below) and any physical, sexual or psychological harm.

Domestic Violence Act, 2012²³

Under **Article 6 of the Domestic Violence Act**, an act of domestic violence carries both civil and criminal liability.²⁴

Article 1(b) refers to 'domestic violence' as the commissioning of any act of violence by the perpetrator against a victim with whom s/he is bound by a 'domestic relationship'. 'Domestic relationship' is further clarified at **Article 3(a)** to include family members and the parents of a child or a person who has parental responsibility for a child, living in the same household.²⁵

Article 4(a) goes on to define 'domestic violence' as including any acts by a perpetrator whose behaviour harms, or may cause imminent harm to, the safety, health or wellbeing of a victim with whom s/he is in a domestic relationship. These acts include physical violence and abuse, and intimidation by threatening violence.²⁶

These four acts provide a range of offences under which a case of FGC could be prosecuted.

Procuring, Aiding and Abetting FGC

There is nothing in **the Penal Code** that explicitly criminalises aiding and abetting an offence. However, **Section 536(b)(2)**, which refers to concealing or aiding a fugitive who has committed a misdemeanour, may apply. It would not apply if the fugitive is a close family member.²⁷

Allowing the Use of Premises

There is nothing in **the Penal Code** or other relevant legislation criminalising giving permission to use a premises in a prosecutable offence such as FGC.

Providing or Possessing Tools

Similarly, there is nothing in **the Penal Code** or other relevant legislation criminalising the provision or possession of tools for use in a prosecutable offence such as FGC.

Failure to Report FGC

Section 126 of the Protection of the Rights of Children (Failure to report an offence of violence against Children) could be applied to an offence of FGC. This states that it is an offence for a person who knows that another, or others, are committing or planning to commit sexual abuse, major physical or mental abuse or exploitation of a child not to report it (without a valid reason) to the police, the Child and Family Protection Service or any other state institution that works in the interests of children.²⁸

Medicalised FGC

No official data has been captured about who carries out FGC in the Maldives. In newspaper reports, however, there are references to midwives being approached by 'religious scholars' to do it as soon as possible after birth.²⁹

This would suggest that the practice is becoming medicalised; i.e. it is increasingly being undertaken by medically skilled personnel as part of patient 'care' and management.

Protection Laws

There does not appear to be legislation protecting those women and girls who choose not to undergo FGC from derogatory or abusive language, or discrimination and actions that exclude them from society and community participation.

Under **Section 90 (a) of the Child Protection Act**, an order can be issued by a court that a child who has been assessed as being in need of care and protection and vulnerable to further harm if she continues to reside with those responsible for her care (for example, parents or guardians) can be temporarily assigned to another person who will take on the duty of her care, or arrangements can be made for a permanent manner of protecting the child.³⁰

Committee on the Elimination of Discrimination against Women

Committee on the Rights of the Child

Joint Statement

V. Criteria for determining *harmful practices*

15. *Harmful practices are persistent practices and forms of behaviour that are grounded in discrimination on the basis of, among other things, sex, gender and age, in addition to multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering. The harm that such practices cause to the victims surpasses the immediate physical and mental consequences and often has the purpose or effect of impairing the recognition, enjoyment and exercise of the human rights and fundamental freedoms of women and children. There is also a negative impact on their dignity, physical, psychosocial and moral integrity and development, participation, health, education and economic and social status. The practices are therefore reflected in the work of both Committees.*
16. *For the purposes of the present joint general recommendation/general comment, practices should meet the following criteria to be regarded as harmful:*
- (a) They constitute a denial of the dignity and/or integrity of the individual and a violation of the human rights and fundamental freedoms enshrined in the two Conventions;*
 - (b) They constitute discrimination against women or children and are harmful insofar as they result in negative consequences for them as individuals or groups, including physical, psychological, economic and social harm and/or violence and limitations on their capacity to participate fully in society or develop and reach their full potential;*
 - (c) They are traditional, re-emerging or emerging practices that are prescribed and/or kept in place by social norms that perpetuate male dominance and inequality of women and children, on the basis of sex, gender, age and other intersecting factors;*
 - (d) They are imposed on women and children by family members, community members or society at large, regardless of whether the victim provides, or is able to provide, full, free and informed consent.³¹*

Penalties

Protection of the Rights of Children Act, 2019³²

Under **Section 124 (Offence of neglecting a Child) of the Protection of the Rights of Children Act**, a person performing FGC can be punished with *up to three years' imprisonment*.

Conviction under **Section 126 (Failure to report an offence of violence against Children)** can mean punishment of *up to two years' imprisonment*.

Penal Code, 2014

If **Section 120 (Assault)** is applied to a case of FGC that is graded as 'injurious' and a Class 2 misdemeanour, punishment will be *imprisonment for up to six months*.

If FGC is graded as "simple" assault, which is a Class 3 misdemeanour, the prison sentence will be *up to three months*.

While FGC Type 4, which anecdotally is the most common form of FGC in the Maldives, is likely to be classed as 'injurious' or 'simple', if a more extreme form of FGC occurred (intentionally or otherwise), resulting in serious harm, that may be defined as a 'serious assault' and, depending on the degree of harm to the child, the prison sentence could be extended *up to a year* as a Class 1 misdemeanour.³³

Implementation of the Law

Court Cases

To date, there are no reported cases of FGC being prosecuted in the Maldives.

Role of the State

See also Appendix III below.

The Constitution of the Republic of Maldives (2008)³⁴ states that no law contrary to any tenet of Islam shall be enacted in the country (**Article 10[b]**). To date, the Fatwa Majlis (the Supreme Council of Fatwa, Maldives) has failed to release any verdict on FGC, and so the stance of the Ministry of Islamic Affairs on the practice is unclear.³⁵ The Fatwa Majlis has long been the source to turn to when there are disputes on any matter, especially those related to Sharia law.

However, the Government of the Maldives has responsibilities and powers under certain clauses of the Constitution and various other acts to develop and fund programmes aimed at eliminating FGC.

Under **Article 20 of the Constitution**, 'Every individual is equal before and under the law, and has the right to the equal protection and equal benefit of the law.'³⁶

Under **Article 27**, 'Everyone has the right to freedom of thought and the freedom to communicate opinions and expression in a manner that is not contrary to any tenet of Islam.'³⁷

Article 35(a) provides, 'Children and young people are entitled to special protection and special assistance from the family, the community and the State. Children and young people shall not be harmed, sexually abused, or discriminated against in any manner . . .'³⁸ The absence of cases of FGC being prosecuted as criminal offences under **the Protection of the Rights of Children Act** or **the Penal Code** suggests that women and girls in affected communities are not being treated to the equal protection of the law as guaranteed by **the Constitution**.

Chapter 8 of the Protection of the Rights of Children Act establishes a Council for the Protection of the Rights of Children, which has a duty under **Section 58** to:

- (g) determine long term guidelines for releasing funds to State institutions and civil society organisations working to provide protection to Children, and determine matters to be given priority when releasing funds under those guidelines.³⁹

Under **Section 62 of that Act**, the funds needed for carrying out the Child and Family Protection Service's full responsibilities have to be included in the state budget passed by the People's Majlis every year, and released to that Service.⁴⁰

Article 44 of the Gender Equality Act also requires that the state budget include funds needed for establishing gender equality, preventing gender-based violence against women and supporting the victims of such violence.⁴¹

Politics, Religion and FGC

FGC was thought to have died out in the Maldives in the 1990s. However, an emergent religious conservatism in the country, which began in the early 2000s, is a threat and has the potential to bring about a resurgence of the practice.

In 2009, the attorney general at the time, Husnu Suood, raised concerns about 'the circumcising of girls . . . going on with a new spirit' in the country.⁴²

Women's-rights activist Shadiya Ibrahim noted in 2011 that, in the Maldives, 'being a woman is harder now', which supports other reports that Maldivian society has become increasingly oppressive of women.⁴³

Over the last five years, several influential Maldivian religious clerics have promoted FGC and linked the practice to Islam, despite it not being made an obligation by any of the major religious texts.⁴⁴

In 2020 the Maldives Human Rights Commission reported in its third *'Rights' Side of Life* survey:

The support for gender equality has diminished and women's rights seem to have suffered even more over the years. What is significantly worse is the emergence of a religious extremist narrative that has been used to weaken support for gender equality and women's rights.⁴⁵

The UNDP Maldives' *Gender Equality Strategy 2023–2026* also reflected on

a decline over the years in support for equal rights of women within the family. A key aspect linked to this decline is that [a] religious extremist standpoint is associated with the rejection/ moving away from gender equality and the rights of women[,] as the survey notes gender equality as the most cited cause for incompatibility of human rights with Islam.⁴⁶

In response to issues raised by the Committee for the Elimination of Discrimination against Women (CEDAW) in 2020, the Government indicated its commitment to bring about necessary legislative changes to address FGC: '[T]he Government takes this issue very seriously and is committed to bring about necessary legislative changes to address this issue.'⁴⁷ However, despite 'relentless campaigning' from women's-rights groups, no laws have been enacted to date.⁴⁸

In November 2021 President Ibrahim Mohamed Solih ratified an amendment to **the Sexual Offences Act (Law No. 17/2014)**, which redefined and extended to married couples the offences of rape, sexual injury and sexual assault. It also required the training of staff at health facilities in 'victim-centred and trauma-informed' approaches and how to use rape evidence kits.⁴⁹ Despite extensive advocacy by women's-rights groups, the criminalisation of FGC was not included in the amendments.⁵⁰

Also in 2021, the Government presented the ***National Gender Equality Action Plan for 2022–2026***.⁵¹ **Policy Goal 4** within this includes a target to 'Eliminate FGM among girls (0–14 year olds)' [*sic*].⁵² This is supported in the Plan by **Strategy 2.5**, to commission the Maldives National University to 'Conduct a rapid assessment into prevalence of practices of Female Genital Mutilation (FGM) in the country.'⁵³ The progress of that assessment is not known.

Conclusions

There is no specific legislation in the Maldives prohibiting FGC or referring to FGC. There are, however, various acts under which performing FGC could be a prosecutable criminal offence.

- **Protection of the Rights of Children Act, 2019:** While not explicitly mentioning FGC, this Act criminalises acts of negligence that may cause physical or mental harm to a child by a person who has a duty of care toward that child. It also establishes that every child has the right to be protected from all social and cultural activities and practices that adversely affect their interests, dignity and development, although there is no specific definition of the acts that would be classed as failing to provide such protection.
- **Gender Equality Act, 2016:** Again, while this Act does not explicitly mention FGC, under it any violence toward women shall be considered gender-based discrimination. 'Gender-based violence' is defined as including physical or psychological harm and domestic violence, all of which might include FGC. It mandates the Ministry to prevent gender-based discrimination and violence.
- **Penal Code, 2014:** Under Section 120 of the Penal Code, FGC could qualify as 'assault' – when a person commits a prosecutable offence by, without the consent of another person, touching or injuring that other person, or putting such person in fear of imminent bodily injury. 'Bodily injury' includes 'substantial physical pain, illness or impairment of physical condition'.
- **Domestic Violence Act, 2012:** This Act criminalises domestic violence by a perpetrator who is in a domestic relationship with the victim. 'Domestic violence' includes physical abuse, intimidation and acts that may be described as controlling or abusive behaviour toward the victim.

Recommendations

1. Orchid Project recommends that, as a first step, **a national survey be conducted** to confirm the extent of FGC in the Maldives and to gather data about the age at which girls undergo cutting, who performs it and in what facilities (including hospitals and general-practitioner clinics), the types of FGC that occur and the reasons for the continuance of the practice. The *National Gender Equality Action Plan* has tasked the Maldives National University with undertaking this survey, but its progress or results have not been made publicly available to date. The survey is due to be completed by 2026 and to be verified by the next Demographic and Health Survey.
2. The Health Protection Agency, Ministry of Gender, Family and Social Services, and the Family Protection Authority are among those government institutions tasked with supporting the University with the survey. Orchid Project further recommends that these institutions, along with the Ministry of Islamic Affairs, using the funds available in the national budget, **set up a National Working Group** tasked with developing and implementing a programme of education and awareness-raising about the impact on health and other harms FGC causes in communities in which it is practised.
3. Meanwhile, it would be helpful for the Health Protection Agency to **issue a warning to all licensed medical practitioners** (including general practitioners, midwives and nurses) that FGC must not be carried out in healthcare facilities, further stating that those who perform FGC may lose their licences to practice.
4. While it is hoped that education and awareness-raising about the harms of FGC will lead to a reduction in the practice, Orchid Project urges the Government to consider **introducing legislation that criminalises FGC**. This could take the form of a specific law criminalising FGC, which includes a clear definition of FGC that corresponds to the one given by the World Health Organization and clarifies any uncertainty around what types of cutting are classified as FGC; provides specific penalties for people who arrange, undertake or assist in the process of FGC on a minor girl or adult woman; and criminalises the failure to report its occurrence or likely occurrence.

Appendix I:

International and Regional Treaties

Maldives	Signed?	Ratified/ Acceded?	Reservations on Reporting? Yes/No
International			
Convention on the Elimination of All Forms of Discrimination against Women (1979)		Yes, 1 July 1993	<p>Yes: The Maldives acceded to CEDAW on 1 July 1993. On 29 January 1999, the Government of Maldives notified the Secretary-General of a modification of its reservation made upon accession. The texts of the reservations made upon accession read as follows.</p> <p>Reservations: <i>The Government of the Republic of Maldives will comply with the provisions of the Convention, except those which the Government may consider contradictory to the principles of the Islamic Sharia upon which the laws and traditions of the Maldives is founded. Furthermore, the Republic of Maldives does not see itself bound by any provisions of the Convention which obliges to change its Constitution and laws in any manner.</i></p> <p>On 31 March 2010, the Government of notified the Secretary-General of its decision to withdraw its reservation regarding Article 7(a). The reservation read as follows:</p> <p><i>The Government of the Republic of Maldives expresses its reservation to article 7(a) of the Convention, to the extent that the provision contained in the said paragraph conflicts with the provision of article 34 of the Constitution of the Republic of Maldives</i></p> <p>The Government has also made reservations in relation to Article 16 concerning sections (a), (c), (d) and (f) of paragraph 1:</p>

The Government of the Republic of Maldives reserves its right to apply article 16 of the Convention concerning the equality of men and women in all matters relating to marriage and family relations without prejudice to the provisions of the Islamic Sharia, which govern all marital and family relations of the 100 percent Muslim population of the Maldives.

Convention on the Rights of the Child (1989)	Yes, 21 August 1990	Yes, 11 February 1991	<p>Yes: Reservations:</p> <p>1) <i>Since the Islamic Shariah is one of the fundamental sources of Maldivian Law and since Islamic Shariah does not include the system of adoption among the ways and means for the protection and care of children contained in Shariah, the Government of the Republic of Maldives expresses its reservation with respect to all the clauses and provisions relating to adoption in the said Convention on the Rights of the Child.</i></p> <p>2) <i>The Government of the Republic of Maldives expresses its reservation to paragraph 1 of article 14 of the said Convention on the Rights of the Child, since the Constitution and the Laws of the Republic of Maldives stipulate that all Maldivians should be Muslims.</i></p> <p>Upon ratification: reservations to Articles 14 and 21.</p> <p>Article 14 concerns the right of the child to freedom of thought, conscience and religion; Article 21 concerns adoption.</p>
The Organisation of Islamic Co-operation – Cairo Declaration on the Elimination of FGM (CDEFGM) (2003)	No	N/A	N/A

‘Signed’: a treaty is signed by countries following negotiation and agreement of its contents.

‘Ratified’: once signed, most treaties and conventions must be ratified (i.e. approved through the standard national legislative procedure) to be legally effective in that country.

‘Acceded’: when a country ratifies a treaty that has already been negotiated by other states.

Appendix II:

CEDAW General Recommendation No. 14: Female Circumcision

*Adopted at the Ninth Session of the Committee on the Elimination of Discrimination
against Women, in 1990*

(Contained in Document A/45/38 and Corrigendum)

The Committee on the Elimination of Discrimination against Women,

Concerned about the continuation of the practice of female circumcision and other traditional practices harmful to the health of women,

Noting with satisfaction that Governments, where such practices exist, national women's organizations, non-governmental organizations, specialized agencies, such as the World Health Organization, the United Nations Children's Fund, as well as the Commission on Human Rights and its Submission on Prevention of Discrimination and Protection of Minorities, remain seized of the issue having particularly recognized that such traditional practices as female circumcision have serious health and other consequences for women and children,

Noting with interest the study of the Special Rapporteur on Traditional Practices Affecting the Health of Women and Children, as well as the study of the Special Working Group on Traditional Practices,

Recognizing that women are taking important action themselves to identify and to combat practices that are prejudicial to the health and well-being of women and children,

Convinced that the important action that is being taken by women and by all interested groups needs to be supported and encouraged by Governments,

Noting with grave concern that there are continuing cultural, traditional and economic pressures which help to perpetuate harmful practices, such as female circumcision,

Recommends to States parties:

- (a) That States parties take appropriate and effective measures with a view to eradicating the practice of female circumcision. Such measures could include:

The collection and dissemination by universities, medical or nursing associations, national women's organizations or other bodies of basic data about such traditional practices;

The support of women's organizations at the national and local levels working for the elimination of female circumcision and other practices harmful to women;

The encouragement of politicians, professionals, religious and community leaders at all levels including the media and the arts to cooperate in influencing attitudes towards the eradication of female circumcision;

The introduction of appropriate educational and training programmes and seminars based on research findings about the problems arising from female circumcision;

- (b) That States parties include in their national health policies appropriate strategies aimed at eradicating female circumcision in public health care. Such strategies could include the special responsibility of health personnel including traditional birth attendants to explain the harmful effects of female circumcision;
- (c) That States parties invite assistance, information and advice from the appropriate organizations of the United Nations system to support and assist efforts being deployed to eliminate harmful traditional practices;
- (d) That States parties include in their reports to the Committee under articles 10 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women information about measures taken to eliminate female circumcision.⁵⁴

Appendix III: Role of the State

United Nations

CEDAW/C/GC/31/Rev.1CRC/C/GC/18/Rev.1

**Convention on the Elimination of All Forms of Discrimination against Women
Convention on the Rights of the Child**

**Committee on the Elimination of
Discrimination against Women**

Committee on the Rights of the Child

*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 (2019) on harmful practices** **8 May 2019**

39. The Committees recommend that the States parties to the Conventions:

- (a) Accord priority to the regular collection, analysis, dissemination and use of quantitative and qualitative data on harmful practices disaggregated by sex, age, geographical location, socioeconomic status, education level and other key factors, and ensure that such activities are adequately resourced. Regular data collection systems should be established and/or maintained in the health-care and social services, education and judicial and law enforcement sectors on protection-related issues;
- (b) Collect data through the use of national demographic and indicator surveys and censuses, which may be supplemented by data from nationally representative household surveys. Qualitative research should be conducted through focus group discussions, in-depth key informant interviews with a wide variety of stakeholders, structured observations, social mapping and other appropriate methodologies.

[. . .]

55. The Committees recommend that the States parties to the Conventions adopt or amend legislation with a view to effectively addressing and eliminating harmful practices. . .

[. . .]

60. The Committees recommend that the States parties to the Conventions ensure that any efforts undertaken to tackle harmful practices and to challenge and change underlying social norms are holistic, community-based and founded on a rights-based approach that includes the active participation of all relevant stakeholders, especially women and girls.

[. . .]

69. The Committees recommend that the States parties to the Conventions:

- (a) Provide universal, free and compulsory primary education that is girlfriendly, including in remote and rural areas, consider making secondary education mandatory while also providing economic incentives for pregnant girls and adolescent mothers to complete secondary school and establish non-discriminatory return policies;
- (b) Provide girls and women with educational and economic opportunities in a safe and enabling environment where they can develop their self-esteem, awareness of their rights and communication, negotiation and problem-solving skills;
- (c) Include in the educational curriculum information on human rights, including those of women and children, gender equality and self-awareness and contribute to eliminating gender stereotypes and fostering an environment of nondiscrimination;
- (d) Ensure that schools provide age-appropriate information on sexual and reproductive health and rights, including in relation to gender relations and responsible sexual behaviour, HIV prevention, nutrition and protection from violence and harmful practices;
- (e) Ensure access to non-formal education programmes for girls who have dropped out of regular schooling, or who have never enrolled and are illiterate, and monitor the quality of those programmes;
- (f) Engage men and boys in creating an enabling environment that supports the empowerment of women and girls.

[. . .]

73. The Committees recommend that the States parties to the Conventions:

- (a) Provide all relevant front-line professionals with information on harmful practices and applicable human rights norms and standards and ensure that they are adequately trained to prevent, identify and respond to incidents of harmful practices, including mitigating negative effects for victims and helping them to gain access to remedies and appropriate services;
- (b) Provide training to individuals involved in alternative dispute resolution and traditional justice systems to appropriately apply key human rights principles, especially the best interests of the child and the participation of children in administrative and judicial proceedings;
- (c) Provide training to all law enforcement personnel, including the judiciary, on new and existing legislation prohibiting harmful practices and ensure that they are aware of the rights of women and children and of their role in prosecuting perpetrators and protecting victims of harmful practices;

- (d) Conduct specialized awareness and training programmes for health-care providers working with immigrant communities to address the unique health-care needs of children and women who have undergone female genital mutilation or other harmful practices and provide specialized training also for professionals within child welfare services and services focused on the rights of women and the education and police and justice sectors, politicians and media personnel working with migrant girls and women.

[. . .]

81. The Committees recommend that the States parties to the Conventions:

- (a) Develop and adopt comprehensive awareness-raising programmes to challenge and change cultural and social attitudes, traditions and customs that underlie forms of behaviour that perpetuate harmful practices;
- (b) Ensure that awareness-raising programmes provide accurate information and clear and unified messages from trusted sources about the negative impact of harmful practices on women, children, in particular girls, their families and society at large. Such programmes should include social media, the Internet and community communication and dissemination tools;
- (c) Take all appropriate measures to ensure that stigma and discrimination are not perpetuated against the victims and/or practising immigrant or minority communities;
- (d) Ensure that awareness-raising programmes targeting State structures engage decision makers and all relevant programmatic staff and key professionals working within local and national government and government agencies;
- (e) Ensure that personnel of national human rights institutions are fully aware and sensitized to the human rights implications of harmful practices within the State party and that they receive support to promote the elimination of those practices;
- (f) Initiate public discussions to prevent and promote the elimination of harmful practices, by engaging all relevant stakeholders in the preparation and implementation of the measures, including local leaders, practitioners, grass-roots organizations and religious communities. The activities should affirm the positive cultural principles of a community that are consistent with human rights and include information on experiences of successful elimination by formerly practising communities with similar backgrounds;
- (g) Build or reinforce effective partnerships with the mainstream media to support the implementation of awareness-raising programmes and promote public discussions and encourage the creation and observance of self-regulatory mechanisms that respect the privacy of individuals.

[. . .]

87. The Committees recommend that the States parties to the Conventions:
- (a) Ensure that protection services are mandated and adequately resourced to provide all necessary prevention and protection services to children and women who are, or are at high risk of becoming, victims of harmful practices;
 - (b) Establish a free, 24-hour hotline that is staffed by trained counsellors, to enable victims to report instances when a harmful practice is likely to occur or has occurred, and provide referral to needed services and accurate information about harmful practices;
 - (c) Develop and implement capacity-building programmes on their role in protection for judicial officers, including judges, lawyers, prosecutors and all relevant stakeholders, on legislation prohibiting discrimination and on applying laws in a gender-sensitive and age-sensitive manner in conformity with the Conventions;
 - (d) Ensure that children participating in legal processes have access to appropriate child-sensitive services to safeguard their rights and safety and to limit the possible negative impacts of the proceedings. Protective action may include limiting the number of times that a victim is required to give a statement and not requiring that individual to face the perpetrator or perpetrators. Other steps may include appointing a guardian ad litem (especially where the perpetrator is a parent or legal guardian) and ensuring that child victims have access to adequate child-sensitive information about the process and fully understand what to expect;
 - (e) Ensure that migrant women and children have equal access to services, regardless of their legal status.⁵⁵

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All cited texts in this Law Report were accessed between 1 July 2024 and 31 October 2024, unless otherwise noted.

This report analyses and discusses the application of national (criminal) laws to the commission of FGC and any possible related crimes. It also explores other legal factors deemed relevant, such as legal obligations to report the commission or likely upcoming commission of FGC, available legal protective measures for girls and women at risk of FGC, and any obligations of national governments in relation to FGC.

The initial research conducted for this report consisted of a questionnaire prepared by Allen Overy Shearman Sterling (A&O Shearman*) with input from certain local law firms, local non-governmental organisations and/or other information providers (together, *the Information Providers*). The information contained in the responses to that questionnaire was then reviewed by Orchid Project, updated and used as the basis of further research from relevant sources.

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