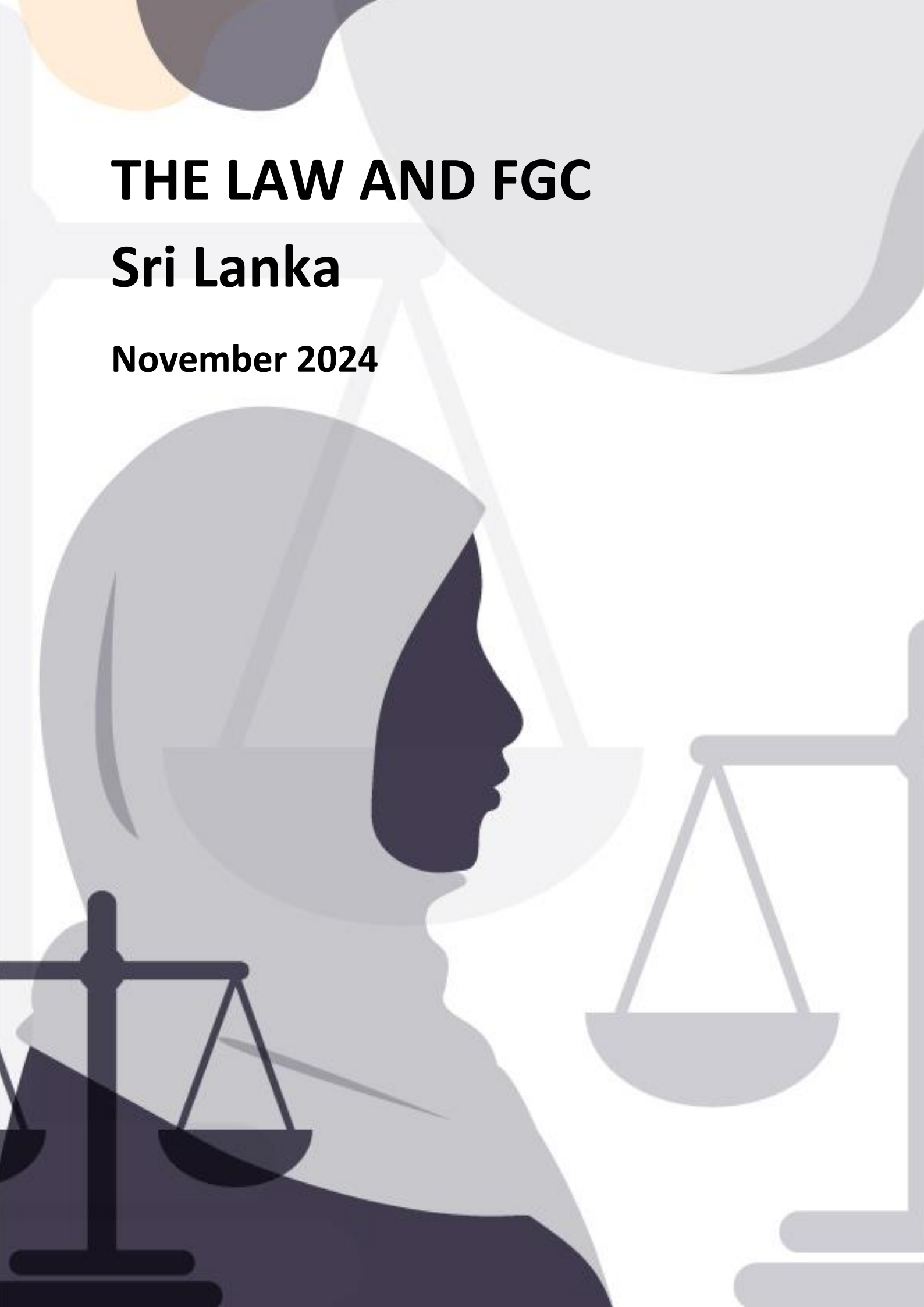


# **THE LAW AND FGC**

## **Sri Lanka**

**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 Democratic Socialist Republic of Sri Lanka is a country in South Asia with a population of 22 million, of which the majority are Sinhalese. Buddhism is the official religion.<sup>1</sup>*

*Sri Lanka is a presidential republic comprising nine provinces.<sup>2</sup> It has a mixed legal system of Roman-Dutch civil law, English common law, Jaffna Tamil customary law, and Muslim personal law.<sup>3</sup>*

## A Note on Terminology

The terms most commonly used for female genital cutting (FGC) in Sri Lanka are *khatna*, by the Dawoodi Bohra, and *sunna* or *sunnat* by other Muslim groups. This Law Report uses all the term 'FGC', rather than female genital mutilation (FGM), as many Asian women do not regard the type of cutting performed in their communities to be 'mutilation'.

### **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.<sup>4</sup>

# Prevalence of FGC

*There are no extensive datasets available on the prevalence of FGC in Sri Lanka.*

Small-scale surveys, however, indicate that FGC is practised in some Sri Lankan Muslim communities.

Muslims make up 9.8% (approximately two million) of the country's population.<sup>5</sup> Muslim communities include the Moor, Malay and Dawoodi Bohra. Dawoodi Bohras, especially, are known to practise FGC.<sup>6</sup>

Sri Lankan Moors make up more than 90% of the Muslim population and 9.2% of the total population of the country. Malays comprise about 6% of the Muslim population.<sup>7</sup> The majority of Dawoodi Bohras live in India, but in Sri Lanka there are about 2,500, mostly residing in Colombo.<sup>8</sup>

*Surveys conducted by non-governmental organisations (NGOs) among the Dawoodi Bohra in India indicate the prevalence of FGC to be 75–85%.<sup>9</sup>*

*In the absence of official national datasets, there are only anecdotes about the prevalence of FGC in some Muslim communities, including the Moor and Malay communities.<sup>10</sup>*

A survey by the Family Planning Association of Sri Lanka (FPASL) emphasises that FGC should not be assumed to take place in all Muslim communities in Sri Lanka.<sup>11</sup> For more information on the outcomes of this survey, please see Orchid Project's **Short Report: FGC in Sri Lanka**.

Type 1 FGC (see the box above) is the most common form of cutting practised by Moors, Malays and Dawoodi Bohras, although it may also be categorised as Type 4, as the cutting of infants has been described as 'a nick'<sup>12</sup> or a 'scrape', rather than the removal of any flesh.

# National Legal Framework

## Applicable General Laws

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

### **The Sri Lanka Penal Code (Ordinance No. 2 of 1883)<sup>13</sup>**

**Section 308A (Cruelty to children)**, which was inserted into **the Penal Code** via the **Penal Code (Amendment) Act, No. 22 of 1995**,<sup>14</sup> states that anyone having custody or care of a child under 18 years of age who ‘wilfully assaults, ill-treats, neglects, or abandons’ that child ‘in a manner likely to cause him [or her]<sup>15</sup> suffering or injury to health (including injury to, or loss of, sight or hearing, or limb or organ of the body or any mental derangement), commits the offence of cruelty to children.’

*FGC causes injury to, and sometimes loss of, the clitoris, which can be considered an ‘organ of the body’. It would therefore be an act of cruelty.*

Under **Section 310 (Cause hurt)**, anyone who ‘causes bodily pain, disease, or infirmity to any person is said to “cause hurt”.’<sup>16</sup>

**Section 311 (Grievous hurt)**, which was also inserted via the **Penal Code (Amendment) Act**, defines the kinds of ‘hurt’ that are designated ‘grievous hurt’. These include ‘any injury which causes the sufferer to be in severe bodily pain or unable to follow his ordinary pursuits, for a period of twenty days either because of the injury or any operation necessitated by the injury.’<sup>17</sup>

*‘Grievous hurt’ is unlikely to apply to FGC Type 4, but Types 1 and 2, which involve cutting away flesh (the clitoris and/or part of the labia minora) cause severe pain and can require medical attention over a period of weeks.*

The following clauses further define what is meant by ‘wilfully’ in **Section 308A**.

- **Section 312 (Voluntarily causing hurt):** If it is the perpetrator’s ‘intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, he is said “voluntarily to cause hurt”.’<sup>18</sup>
- **Section 313 (Voluntarily causing grievous hurt):** Similarly, ‘whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “voluntarily to cause grievous hurt”.’<sup>19</sup>

*Those who perform FGC know that it will cause hurt or grievous hurt and can therefore be said to have voluntarily caused that hurt.*

## Procuring, Aiding and Abetting FGC

**Section 308A (Cruelty to children) of the Penal Code**, which was inserted via the **Penal Code (Amendment) Act**, defines the offence of cruelty to children and goes on to say that anyone who arranges ('causes or procures') for a child to be assaulted or ill-treated that leads to suffering or injury to the child's health (including loss of an organ of the body) commits the same offence.<sup>20</sup>

In addition to this clause about cruelty to children, **the Penal Code** explicitly deals with aiding and abetting under **Chapter V (Abetment)**. **Sections 100–107** are particularly relevant to arranging and assisting in the performance of FGC.<sup>21</sup>

**Section 100** defines an abettor as any person who:

- instigates another person to commit an offence;
- engages in a conspiracy with others to commit an offence; or
- intentionally assists in any act or, by illegal omission, the doing of an offence.

**Chapter V** further defines an 'abettor' as a person who either commissions an offence or what would be an offence if it were committed by someone with the same intention or knowledge to cause hurt or grievous hurt (**Section 101**), or a person present when an offence takes place (**Section 107**).

## Allowing the Use of Premises and Providing or Possessing Tools

There does not appear to be any law that specifically mentions allowing the use of one's premises or the provision (or possession) of tools for the purposes of FGC. However, both of these could be prosecutable under **Chapter V of the Penal Code** as aiding and abetting the offence of causing hurt or grievous hurt as discussed above.

## Failure to Report FGC

Again, there is no specific reference in the law to failing to report an offence. Arguably, however, a person who knows that FGC could be an offence causing hurt and intentionally omits to report its occurrence, or intended occurrence, may be considered to have abetted the crime of FGC under the definition of 'abettor' (**Section 100 of the Penal Code**).

## Medicalised FGC

From the available small-study reports,<sup>22</sup> it would seem that most girls who undergo FGC in infancy (i.e. Moor and Malay Muslims) are cut by traditional practitioners known as *Osthi Mamis*, in homes or local village locations. Cutting is usually in the form of Type 4 or Type 1, involving what has been described as 'a nick'<sup>23</sup> or a scrape.

**A circular issued by the Ministry of Health in 2018**, which prohibited the practice, was targeted at medical practitioners who undertake FGC. Therefore, it would not have been sent to *Osthi Mamis*, who are untrained, carrying out a cultural activity with (as some describe in the surveys) 'skills' passed on to them by former generations of women in their families.

Despite this inherited knowledge, the *Osthi Mamis'* ages and health statuses were seen as an issue by some participants in a *Reproductive Health* survey. One mother said, 'I was afraid as I saw her [the *Osthi Mami*] trembling.' An *Osthi Mami* herself admitted, 'I have eye issue due to my age and diabetes', but she insisted that she had 'never made a missed cut, ever.'<sup>24</sup>

Two of the Dawoodi Bohra participants in the FPASL survey experienced the more severe Type 1 cut which, they report, resulted in permanent physical damage. Both remember being taken to a clinic, where cutting was performed by a doctor or medical professional.<sup>25</sup>

There have been calls from among the Muslim community for the Government to allow the practice to be medicalised, to ensure it is undertaken 'safely' and in hygienic conditions.<sup>26</sup>

*One man who participated in a focus group for the Reproductive Health report stated, 'Doctors are doing it secretly. They do not abide by the law; some of them do it for money.'*<sup>27</sup>

Historically, Muslim women's groups have lobbied the Government and state authorities to take action to mitigate harmful practices, including FGC, and to recognise such acts as crimes.<sup>28</sup>

In 2018 the Ministry of Health denounced FGC and cautioned medical practitioners and authorities in the health sector against any involvement with FGC. However, following severe criticism by members of the Sri Lankan Muslim community who believed this infringed on their religious rights, the circular containing the denouncement was removed from the Health Ministry's website.<sup>29</sup>

*There have been no further updates on any plans to expressly criminalise medicalised FGC through legislation in Sri Lanka.*<sup>30</sup>



## Protecting Uncut Girls and Women

There is no express provision in **the Penal Code** to protect women and girls who choose not to undergo FGC (and their families) from derogatory or abusive language or from discrimination and actions that exclude them from society and community activities.

## Protecting Victims and Witnesses

Additionally, there are no mechanisms for the protection of witnesses in FGC cases.

However, the **Prevention of Domestic Violence Act, No. 34 of 2005**<sup>31</sup> provides protection and relief for victims of domestic violence, including children in the household.

In **Schedule I of the Act**, 'domestic violence' is defined as including all offences contained in **Chapter XVI (Sections 293–365) of the Penal Code** under '**Offences Affecting the Human Body**'. These include all the sections discussed above that relate to child cruelty, hurt and grievous hurt.

Under **the Prevention of Domestic Violence Act**, interim or permanent protection orders can be put in place to protect a child if 'an act of domestic violence has been or is likely to be committed' (**Section 2**).<sup>32</sup>

## **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.<sup>33</sup>*

# Penalties

**Section 308A(2) of the Penal Code (Amendment) Act** states that whoever commits the offence of cruelty to children as defined in **Section 208A(1)** will be punished with *imprisonment for between two and ten years and/or a fine, and ordered to pay compensation as determined by the court to the child who was injured.*<sup>34</sup>

**Section 314 (Punishment for voluntarily causing hurt) of the Penal Code** states that whoever voluntarily causes hurt shall be punished with *imprisonment for up to one year, and/or a fine of up to a thousand rupees.*<sup>35</sup>

**Section 316 (Punishment for voluntarily causing grievous hurt)** states that whoever voluntarily causes grievous hurt shall be punished with *imprisonment for up to seven years, and may also be liable to a fine.* In addition, if the person to whom the grievous hurt is caused is a woman or a child, they may be *punished with whipping.*<sup>36</sup>

**Section 102** states that, generally, an abettor shall be punished with the same punishment as that which applies to the offence (unless the Penal Code specifies elsewhere a different punishment for a particular offence).<sup>37</sup>

Under **the Prevention of Domestic Violence Act, Section 18 (Enforcement of Order)**, failing to comply with an interim order or a protection order is an offence, and on conviction an offender may be *fined up to 10,000 rupees and/or imprisoned for up to one year.*<sup>38</sup>

# Implementation of the Law

## Court Cases

There are no reported cases of FGC being prosecuted in Sri Lanka under the laws described above, even though these could be applied to criminalise FGC.

## Role of the State

*See also Appendix III below.*

Under **the Constitution of Sri Lanka (revised edition 2023)**, there are various articles that might have a bearing on FGC; in particular, the right of women and girls to bodily integrity. **Article 12**, specifically, states, '(1) All persons are equal before the law and are entitled to the equal protection of the law.'<sup>39</sup>

The absence of cases of FGC being prosecuted under **the Penal Code's** provisions on hurt and grievous hurt suggests that women and girls in affected communities are not being treated to the equal protection of the law as guaranteed by **the Constitution**.

*In its 2022 submission to the Committee for the Elimination of Discrimination against Women (CEDAW), the Government confirmed that **Section 308A of the Penal Code** could be applied to cases of FGC, thereby recognising the possibility of its criminalisation under the laws described earlier in this Law Report.*<sup>40</sup>

However, the Centre for Islamic Studies in Sri Lanka has indicated its concerns about the criminalisation of FGC, citing it as an infringement of people's rights to practise their religion.<sup>41</sup>

It has been suggested that part of the reason the push for legal reform has not been strong is a concern that, as Muslims are a minority in Sri Lanka, recognition of the practice might fuel discrimination, particularly against Muslim women, who 'bear the brunt of the discrimination directed at the Muslim community at large, for whom space is shrinking in Sri Lanka.'<sup>42</sup> Activists working to end FGC in Sri Lanka have stressed that, as a result of this political climate, they are working cautiously and sensitively at grassroots levels.<sup>43</sup>

Already, in response to concerns about the harms of FGC, alternative approaches are being reported, such as 'the butter knife method', whereby the Osthhi Mami presses a blunt knife against the abdomen of the infant, with no cutting or pricking taking place.<sup>44</sup>

This may also be a response to the division in belief between different groups of Muslims: some believe FGC is not a requirement of Islam, while others believe it is and that to criminalise it would be an infringement of their right to practise their religion.<sup>45</sup>

*For a further discussion of this issue, see Orchid Project's **Short Report: FGC in Sri Lanka**.*

# Conclusions

*FGC is not explicitly prohibited by law in Sri Lanka, but it could be considered under general legislation a form of violence against women and girls and a violation of their human rights.*

**The Penal Code (Sections 310–314)** criminalises voluntarily causing ‘hurt’ and ‘grievous hurt’ and could potentially lead to prosecutions for FGC and penalties of between one and three years’ imprisonment. If it is ruled ‘child cruelty’ under **Section 308A**, the penalty for FGC would be between two and ten years’ imprisonment.

Aiding and abetting FGC is also criminalised under **the Penal Code, Sections 100–107**. These provisions could be applied to those who allow their premises to be used for FGC, those who provide any tools used in the procedure, and those who fail to report the offence to the relevant authorities.

However, to date there have been no reported prosecutions for FGC under these sections.

**The Prevention of Domestic Violence Act** may provide some protection and relief for victims of domestic violence, which could include FGC as a form of physical or psychological abuse. Non-compliance with protection orders can result in imprisonment and/or a fine.

# Recommendations

Orchid Project recommends that:

1. as a first step, **a national survey be** conducted to confirm the extent of FGC in Sri Lanka 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;
2. the Ministry of Women and Child Affairs and the Ministry of Health, together with the Centre for Islamic Studies and leaders of the Dawoodi Bohra community, **set up a national working group** tasked with developing and implementing programmes of education and awareness-raising about the health problems and other harms FGC causes in communities in which it is practised;
3. the Ministry of Health **issue a warning** to all licensed medical practitioners (including general practitioners, midwives and nurses) that FGC must not be carried out in healthcare facilities, and those who do so may lose their licences to practise; and
4. while it is hoped that education and awareness-raising about the harms of FGC will lead to a reduction in the practice, the Government 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

Sri Lanka	Signed?	Ratified/ Acceded?	Reservations on Reporting? Yes/No
<b>International</b>			
Convention on the Elimination of All Forms of Discrimination against Women (1979)	Yes	Yes, 1981	No
Convention on the Rights of the Child (1989)	Yes	Yes, 1991	No
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.<sup>46</sup>

# 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.<sup>47</sup>

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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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