

# EXECUTIVE SUMMARY

## COUNTRY PROFILE: FGC IN MALAYSIA

March 2024



ORCHID  PROJECT

WORKING TOGETHER TO END  
FEMALE GENITAL CUTTING



ASIA NETWORK  
TO END FGM/C

This Country Profile provides comprehensive information on the most recent trends and data on female genital cutting (FGC) in Malaysia. It includes an analysis of the current socio-political situation, legal frameworks and programmes to make recommendations on how to move toward eradicating the practice. Its purpose is to equip activists, practitioners, development partners and research organisations with the most up-to-date information to inform decision-making on policy and practice in the Malaysian and South East Asian contexts.

Academic research undertaken by professionals of various disciplines form the backbone of this Country Profile, as do reports and statements by both governmental and non-governmental organisations, postgraduate research, media materials, webinars and documentary videos.

**Female genital mutilation (FGM)**, the term most often used globally to describe genital cutting, is defined by the World Health Organization (WHO) as the 'partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.'<sup>1</sup>

In Malaysia and South East Asia, 'FGM', is perceived to be an irrelevant term imposed by the West and not reflective of 'female circumcision' as practised in the region<sup>2</sup>. The term '**female circumcision**' medicalises the practice and conveys positive connotations in Malaysia, linking it with male circumcision by projecting the same ideas of 'cleanliness' and 'necessity'. Because the Arabic term (*khitan*) is also used in religious circles, it reinforces a view that the practice is endorsed by all schools of thought within Islam.<sup>3</sup> Additionally, the Malaysian Government denies that FGM is practised in Malaysia, but acknowledges that 'female circumcision' occurs.<sup>4</sup>

However, in 2019, the Committee on the Elimination of Discrimination Against Women (CEDAW) and the Committee on the Rights of the Child issued joint general recommendations on harmful practices, **linking these various terms to one single practice**.<sup>5</sup> Despite linguistic differences and sentiments, the practice of female circumcision in South East Asia still falls under the WHO's classifications of 'Type 1 FGM' and 'Type 4 FGM',<sup>6</sup> and the practice of any form of cutting is recognised internationally to be a violation of human rights, the rights of the child and women's rights.

Since the term 'cutting' appears to be the more widely understood term within South East Asian literature, this Country Profile uses the term '**female genital cutting**' or 'FGC'.

FGC is believed to have been **imported into South East Asia alongside Islam**.<sup>7</sup> In the region, there is a notable **lack of data available about FGC**, but it is usually practised by **Muslim communities** and **viewed as a religious practice**. Its practice by Muslim communities in **Indonesia** and **Malaysia** is well known.<sup>8</sup>

The Malaysian population is divided into three main ethnic groups, the **Bumiputera** – 20.6 million (69.4% of the citizen population); **Chinese** – 6.9 million and **Indian** – 2 million. In addition to these, **non-Malaysian residents** amount to 2.7 million.<sup>9</sup> The Malaysian Constitution<sup>10</sup> further segments the **Bumiputera** into **ethnic Malays**, or **Melayu**, whose dominant position is confirmed in Article 153 of the Constitution; **Orang Asli** (the 'Original People'), referred to as 'Aborigines' in Article 160(2); Sabah's population, referred to as the '**natives of Sabah**' in Article 161A(6)(b); and Sarawak's population, referred to as the '**natives of Sarawak**' in Article 161A(6)(c).

Ethnic Malays, nearly all of whom are Muslim, can also be found in Singapore (9.2%),<sup>11</sup> southern Thailand (more than 70% in the four southernmost provinces) and right across South East Asia.<sup>12</sup>

Malaysia has a **dual judicial system** consisting of common law and Islamic law, and religion is a state matter. The Constitution grants states the power to apply their versions of Islamic law on certain topics and to give jurisdiction to Sharia courts over personal law, matters related to religious practice and offences deemed to be against the precepts of Islam.<sup>13</sup> Globally, **fatwas** are non-binding, formal rulings or opinions on a point of Islamic law, but the Malaysian dual judicial system only gives fatwas the force of law once gazetted; i.e. adopted and published by the individual states as part of their own legislations.<sup>14</sup>

Malaysia has signed and ratified several different international conventions, imposing on the country an obligation to observe measures set out in them to eradicate FGC, as well as recommendations to implement equality of rights for all women throughout Malaysia's legal system.

**The Federal Constitution of Malaysia**<sup>15</sup> does not have any specific provisions on FGC, but could be used to ban or regulate FGC. The Constitution does have a provision on equality of rights and gender-based discrimination, which is, however, not legally inclusive of FGC. FGC is not associated with gender-based discrimination in the minds of most Malaysians.

Article 11(5) of the Constitution (on freedom of religion), read alongside Article 8(5) (on permissible discrimination) has the potential to ban or regulate the practice of FGC on the grounds of 'public order, public health or morality'.<sup>16</sup>

In April 2009, the Fatwa Committee of The National Council for Islamic Religious Affairs Malaysia issued an opinion ('**the 2009 fatwa**') that FGC is 'part of Islamic teachings and should be observed by Muslims[,] except [that,] when the procedure is deemed harmful, it should be avoided'.<sup>17</sup> The 2009 fatwa moved FGC from a recommended Islamic practice to a compulsory act of faith.<sup>18</sup> It also dissociated from the process, guiding principles and outcome decreed by the Grand Mufti of Al-Azhar University.<sup>19</sup> It led the majority of Malay Muslims to see FGC as an obligation, irrespective of the fatwa's legal status, and pushed parents towards medicalised FGC.<sup>20</sup>

After considering evidence discussed by religious scholars and medical experts, the state of Perlis in 2017 issued a view that conflicted with the 2009 fatwa;<sup>21</sup> other Malaysian state fatwa committees expressed opinions supporting it. None of these religious opinions at state level have been published in the official gazette, leaving these opinions as official declarations, not legally binding,<sup>22</sup> but even a non-gazetted fatwa will have a strong influence on personal decision-making.<sup>23</sup>

In **Thailand**, the fatwa committee has not issued any ruling on FGC, and the Health Ministry and Thai authorities have reportedly taken a pragmatic approach to a 'not harmful' 'cultural phenomenon', which, as such, would not need laws or regulations.<sup>24</sup>

In **Singapore**, the absence of a law or legislation banning FGC makes the practice legal;<sup>25</sup> however, the official list of fatwas issued on science, medicine and health does not include FGC, nor does it address the FGC issue in either an approving or a disapproving manner.<sup>26</sup>



The CEDAW stresses that **FGC cannot be justified on religious grounds** nor be authorised by fatwas and **is a harmful practice**, irrespective of the extent of the cut or whether the cut is performed in a medical setting.<sup>27</sup>

Only **seven studies** provide quantitative data on the prevalence of FGC in Malaysia.<sup>28</sup> As sample sizes, geographical areas and representativeness vary between studies, comparisons or trends cannot be drawn. Rather, there is a certain homogeneity in the findings that draws a sketch of prevalence, if not a full picture.

*In view of these studies, Orchid Project estimates an **FGC prevalence of 93% in the female, ethnic Malay population (or more than 7.5 million girls and women) and no FGC in the Chinese and Indian populations.***

The data available are insufficient to estimate prevalence among non-Malay **Bumiputera**, although there is anecdotal evidence that FGC is also practised by members of the **Orang Asli** and **Sabah** and **Sarawak's** indigenous populations.

*The prevalence of FGC in southern Thailand is believed to be close to 88.5% of women and girls. One pilot study in Singapore found a prevalence of 75% among Muslim women.*<sup>29</sup>

The **types of FGC practised** in the Malaysia region fall *at least* into the WHO's Types 1 and 4.<sup>30</sup> Malays do not practise pharaonic circumcision/Type 3 (often referred to as 'infibulation').<sup>31</sup> Type 2, however, has been found in **Singapore**.<sup>32</sup>

In Malaysia, as in most of South East Asia, the cut has traditionally been relatively minor: pricking is common, and flesh the size of a grain of rice is sometimes removed – 'just a little' is universally highlighted. However, researchers emphasise two developments that suggest **a shift toward more severe forms** of the practice: calls by some for 'more "orthodox" forms of Islamic practice';<sup>33</sup> and the paradoxical results of medicalisation, which sometimes lead to deeper cuts or cuts on the clitoris rather than the prepuce.<sup>34</sup> Various studies and articles do not leave much room for doubt about the practise of FGC types other than Type 4 in Malaysia, contradicting the assertion by the Malaysian Government that FGC does not occur in the country.

Across ethnic Malays in Malaysia, southern Thailand and Singapore, an overwhelming majority of **girls are cut before the age of one, often before six months**, although FGC can be carried out at any age.

There are three types of **FGC practitioners**: traditional midwives called *Mak Bidans* ('indigenous midwives'); general practitioners, particularly doctors owning their own clinics; and government midwives (sometimes involved, but to a lesser degree).

Mak Bidans are trusted by the older generations for several reasons. Younger generations, though, have become more receptive to doctors as a 'harm reduction' measure. Doctors are increasingly seen as more qualified.<sup>35</sup> However, United Nations Member States are urged by the General Assembly to stop the medicalisation of FGC.<sup>36</sup>

Traditionally, in South East Asia, the ritual of cutting girls is done quietly, kept between Mak Bidans and parents – unlike the male circumcision ceremony, for which most parents hold a feast. Consequently, while almost all Malay Muslims in Malaysia know about FGC,<sup>37</sup> extended knowledge of the procedure itself, including the details and even, sometimes, if one oneself has been cut, seems less common.

The **motivations for performing FGC** identified by Dawson *et al.*<sup>38</sup> in the Asia Pacific are complex. Religion (which is closely linked with culture and tradition) is cited in all the studies discussed in this Country Profile as a driver of FGC; health as a driver also appears regularly, although what is meant by 'health' is not explained and has no scientific nor logical basis.<sup>39</sup> Religion is also seen as an 'identity'. FGC is a girl's marker of formal/full acceptance into the Islamic community and entrance into the faith.<sup>40</sup> Research points out different beliefs, sometimes contradictory, about the assumed role of FGC in controlling sexuality or increasing sexual function.<sup>41</sup> In southern **Thailand**, FGC is seen as a way to prevent girls from becoming stubborn and of moulding the feminine character.<sup>42</sup>

In Malaysia, FGC is viewed as a '**female business**', and, as such, the husbands let the women make the decisions.<sup>43</sup> However, the decision *not* to cut is made jointly as parents 79.3% of the time. The reasons why some members of Malay-Muslim communities choose not to practise FGC have not been specifically researched.

Notions of **harm** and **the medicalisation of FGC** are at the core of the current societal debates on the practice in Malaysia. FGC is perceived by Malay Muslims to be harmless and safe.<sup>44</sup>

Nowadays, the majority of FGC cases in Malaysia and Singapore are performed by healthcare professionals, contrary to the Medical Act 1971 and the Code of Professional Conduct – which impose a good standard of medical care and the need for consent to medical treatment – as the younger generation chooses private clinics, mostly for hygiene reasons.<sup>45</sup>

A large piece of research on FGC medicalisation<sup>46</sup> found that 85.4% of doctors think FGC should continue. Independently of views on FGC itself, support for medicalised FGC is universal in Malaysia, as a harm-reduction measure for the prevention of infections.<sup>47</sup> Most doctors, however, 'agreed that they would not conduct FGC if there were clear instructions from the medical council and if it were declared illegal.'<sup>48</sup> In **Thailand**, medicalised FGC is resisted on physical, ritualistic and religious grounds.

In 2012, the United Nations General Assembly unanimously passed a resolution framing FGC as a **human-rights violation and a serious threat to the health of women and girls**, including their psychological, sexual and reproductive health, and urged nations to ban the practice.<sup>49</sup>

Recent studies<sup>50</sup> on the anatomy of the clitoris and the clitoral hood shed more light on the physiological harm done by FGC. The size of a child's genitals and girls' development processes mean that 'a little incision' and 'a right process'<sup>51</sup> cannot be guaranteed to cause no harm, inflict on the baby a high level of pain and may even result in her losing her clitoris.<sup>52</sup> A number of doctors practise more invasive forms of FGC by cutting parts of the clitoris (Type 1).<sup>53</sup> Stephen R. Munzer<sup>54</sup> argues that

'interfering with a child's genitalia [has exceptional] salience';<sup>55</sup> therefore, non-consensual pricking, nicking or piercing of genitalia is 'wronging' a child, irrespective of the level of harm.

In Malaysia, the majority of Muslims are Sunni and follow the **Shafi'i doctrine**, the only *maddhab* ('school of thought') to regard FGC as mandatory in Islam, even though some Malay Muslims believe FGC is practised by all Islamic *maddhab*.<sup>56</sup> Religious scholars state that FGC is not a requirement in the Koran; rather, those who support the practice build their reasoning on **the hadiths**.<sup>57</sup> Clarence-Smith<sup>58</sup> claims all the hadiths dealing with FGC either lend themselves to different interpretations or are of uncertain authenticity; besides, 'any tradition can be overruled by deploying the fundamental injunction in the Quran to command and forbid evil.'<sup>59</sup>

The international spotlight placed on Malaysian FGC is considered to serve a Western agenda to censure a harmless traditional/religious practice and, therefore, to condemn Islam and Malayness. It has ignited a strong discourse, pushing academics to reassess the hadiths' authenticity from a Malay point of view, which means that edicts such as that of the Grand Mufti of Al-Azhar University, which bans FGC, are viewed as irrelevant – a 'foreign fatwa'.<sup>60</sup>

Nonetheless, a 2019 Malaysian study<sup>61</sup> reassessed the hadiths and concluded that there is an absence of 'valid' evidence of a command by the Prophet regarding FGC; that scholars do not issue fatwas solely on religious texts, but also by referring to medical expertise available at the time, pursuing the Islamic care for the health aspects of every human being; and that it is unnecessary to associate anti-FGC advocacy with a Western agenda or a movement to destroy Islam.

Psychological harm caused by FGC has been recorded in **Singapore**.<sup>62</sup> In **Malaysia**, Professor Rashid Khan<sup>63</sup> regrets the lack of academic data on the psychological impact of Type 4 FGC. On social media and blogs, some Malay women are ending their silence, telling their stories and questions or fears about the impact their own FGC had on them, such as long-term pain after delivering a child and a plummeting sexual desire.<sup>64</sup> A little cut may be too much, as 'doctors are cutting growing tissue that could lead to sexual dissatisfaction later in life, due to the inability to experience orgasm adequately, which can lead to marital issues and family disharmony'.<sup>65</sup>

FGC as practised in Malaysia (or anywhere in the world) has **no medical benefits**.<sup>66</sup>

The Malaysian Medical Council is thought to regard FGC as a predominantly Muslim issue. Therefore, it chooses to be silent on the matter. There seems to be general agreement that FGC is not to be performed by members of the medical profession,<sup>67</sup> but practising doctors consider the Council's silence to be 'tacit approval'.<sup>68</sup> The Government, too, has actively supported FGC and tried to legitimise it in front of the CEDAW, but has not made any official statements.<sup>69</sup> **Singapore's** and **Thailand's** governments are equally silent.

**Challenges that must be overcome to end FGC** among ethnic Malays are as follows.

- FGC is a very sensitive topic in Malaysia. The Government's strategic silence leaves grassroots organisations and NGOs responsible for negotiating the issue. Stakeholders – government, religious and health authorities; CSOs and NGOs; and individuals – should take up that responsibility to advance the movement toward ending FGC.

- The polarisation of religious discourses is a barrier in a society that sees FGC as a cultural and religious identity marker. Nonetheless, Islamic jurists around the globe draw insights from classical and contemporary jurisprudence, which state that FGC is not an Islamic practice or that FGC is not mandatory in Islam. These views could change the narrative in Malaysia.
- Misunderstandings of what constitutes 'harm', beyond visible injuries, lead parents to continue supporting the practice. Education and further research are required on the wider definition of 'harm', as well as a better understanding of 'harm' versus 'wronging'.
- Medicalised FGC is already popular and continues to be supported by doctors and the younger generations. The majority of medical practitioners lack awareness of civil or religious legalities or of the global concern and ethics surrounding FGC. However, doctors would be disinclined to continuing the practice if there were clear instructions from the Malaysian Medical Council and if FGC were made illegal.<sup>70</sup>
- As 'female circumcision' is not recognised as FGC, there is no funding available to carry out research or advocacy.

Pressure has been brought by the international human-rights community on the Malaysian Government to comply with its international commitments and ban the practice. An overview of some of these organisations is included with this report. However, in the context of the Government's denial of the classification and harms of the practice, efforts have yet to result in any significant change.

**This Country Profile calls for the following actions:**

- **break the silence surrounding FGC** and bring the issue to the forefront in socio-political spaces, to enable informed debates about harm, consent/parental authority and bodily integrity within all affected ethnic groups and society as a whole;
- **gather and make available national, regional and ethnic data**, including the prevalence, specific practices and drivers of the practice;
- **allocate resources** to grassroots and other organisations that are engaged in the long-term work of changing attitudes and beliefs about FGC;
- **work with the Ministry of Health, JAKIM and medical professionals** to deepen the understanding of physical, emotional, psychological and sexual harms caused by Types 1 and 4, and issue statements accordingly;
- **conduct knowledge-sharing workshops** to improve parental and societal access to information about FGC harm;
- **engage with religious leaders**, in meaningful and transformative ways, to deconstruct the belief that FGC is a religious requirement; and
- **implement culturally appropriate and sensitive policies** to protect women and girls from FGC.

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