

THE LAW AND FGC

The Philippines

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 the Philippines is a country in South East Asia with an estimated population of 116 million. It is a democratic republic with a presidential form of government and a legal system based on civil and common law. Elements of Islamic law apply in the south-western region of the country, known as the BARMM (Bangsamoro Autonomous Region of Muslim Mindanao).

A Note on Terminology

The terms used in the Philippines to describe female genital mutilation/cutting differ between the affected communities living in the BARMM. *Pag sunnat* or *pag-Islam* are the terms most commonly used by the Moro and the Yakan. *Turi* is the term used by the Meranaos, who live mainly in Lanao del Sur.¹ 'Female genital cutting' (FGC) and 'female circumcision' are also used by these groups, rather than 'female genital mutilation', as they do not regard the practice to be 'mutilation'. 'FGC' is therefore used in this Law Report, except where the vernacular is applied in relation to a specific local context.

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.²

Prevalence of FGC

There are no official statistical data to indicate the prevalence of FGC in the Philippines. The practice appears to be mostly limited to some Muslim communities in the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM), which comprises five south-western provinces that are home to approximately 4.5 million people (4.04% of the Philippines' population).³

Approximately 91% of the population in the BARMM region is Muslim⁴ and includes the Moros, Yakan and Meranaos Muslim communities. Informal surveys conducted by international non-governmental organisations (NGOs) and academics suggest that the prevalence of FGC among women and girls in these communities in the Philippines is 80%–86%.⁵

The most common types of FGC carried out on affected girls and women in the Philippines are Type 4 (performed by the Moro and Yakan) and Type 1 (performed by the Meranao).⁶ They are variously described by academics as 'scraping of the labia majora without any bleeding',⁷ 'scraping and pricking to cause "just a little blood"',⁸ and using a needle 'to prick the clitoris and subsequently, remov[e] a small portion of the clitoral tissue'.⁹

The age at which FGC takes place ranges from infancy to 12 years, or 'before the age of reason'.¹⁰ Under the BARMM personal laws, Muslim girls aged 12–15 are eligible to be married as soon as they reach puberty and upon petitioning by their parents or guardians to the Sharia District Court.¹¹ In the Philippines, the performance of FGC is closely related to early marriage as it is 'culturally assumed that girls are ready for marriage after undergoing FGM/C'.¹²

National Legal Framework

Applicable General Laws

There is no specific law against FGC in the Philippines. However, the performance of FGC is potentially prosecutable under various criminal laws and codes, depending on the circumstances and the degree of harm inflicted.

The Revised Penal Code of the Philippines¹³

Article 262 (Mutilation) of the Revised Penal Code criminalises ‘mutilation’, which is defined as ‘intentionally mutilat[ing] another by depriving him, either totally or partially, of some essential organ for reproduction.’

Under this article, FGC could be viewed as the mutilation of an organ (i.e. the clitoris).

Article 265 refers to ‘less serious physical injuries’ that do not fall under the definition of ‘mutilation’. These injuries are defined as ones that prevent the person from working for ten days or more, or require medical attendance for the same period.

FGC of the types carried out in the Philippines are unlikely to require ten days’ medical attention, unless they result in infection or severe damage to the clitoris and its surrounding tissues.

Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination¹⁴

Section 3 of this act defines ‘child abuse’ as ‘the maltreatment, whether habitual or not,’ of a child. Forms of maltreatment include psychological and physical abuse, neglect, cruelty, sexual abuse and emotional harm.

Circumstances that ‘gravely threaten or endanger the survival and normal development of children’ (**Section 3[c]**) include those described above when they ‘endanger the life, safety or normal development’ of a child.

FGC Types 1 and 4, the types of FGC most commonly found in the Philippines, may be considered physical abuse, emotional harm, and as potentially endangering the normal development of a girl, but are unlikely to be viewed as endangering her life.

Presidential Decree No. 1083: Code of Muslim Personal Laws of the Philippines¹⁵ and the Magna Carta of Women¹⁶

Singapore has a plural legal system in relation to marriage and family matters. **The Magna Carta of Women** applies to all Filipino women. However, within the BARMM region there exist the **Muslim Personal Laws**, which are applicable only to Muslims. This provision is set out in **Presidential Decree No. 1083 (passed in 1977), A Decree to Ordain and Promulgate a Code Recognizing the System of Filipino Muslim Laws, Codifying Muslim Personal Laws, and Providing for its Administration and For Other Purposes.**¹⁷

Presidential Decree No. 1083 does not contain any reference to FGC, but under it Muslim girls aged 12–15 are eligible to be married as soon as they reach puberty and upon petition by the their parents or guardians to the Sharia District Court.¹⁸

Procuring, Aiding and Abetting FGC

There is no specific legislation criminalising the procurement, or assisting in the arrangement or performance, of FGC.

Allowing the Use of Premises

There is no law criminalising allowing the use of one's premises for FGC.

Providing or Possessing Tools

Similarly, there is no law criminalising the provision or possession of tools or equipment to be used for the purposes of FGC.

Failure to Report FGC

Failure to report FGC could fall under the **Violence Against Women and their Children Act (2004) (Republic Act No. 9262), Section 30 (Duties of Barangay Officials and Law Enforcers).**¹⁹

Barangay officials²⁰ and law enforcers have a duty to immediately report a call for assessment or assistance to the relevant government department or accredited NGO. Any barangay official or law enforcer who fails to report an incident of violence against a woman or child may be fined.

Although officials are criminally liable for not reporting such an incident, there is nothing that makes members of the public liable to prosecution for failing to report an act of violence against a woman or child.

Medicalised FGC

The performance of FGC in medical facilities, or elsewhere, by health professionals is not criminalised, nor does it appear that the Philippines' Department of Health has issued any guidelines or warnings to health professionals against taking part in the practice.

Protecting Uncut Girls and Women

There is no provision to protect uncut women and girls (and their families) from derogatory or abusive language, or from discrimination and actions that exclude them from society and community activities, nor are there mechanisms for the protection of victims and witnesses in FGC cases, or provisions for protection orders for potential victims.

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.²¹*

Penalties

Penalties for carrying out FGC could be imposed under several of the general laws described above.

- **The Revised Penal Code** states, at **Article 262**, that any person who intentionally mutilates another by depriving them, either totally or partially, of some essential organ for reproduction will be *imprisoned for between 12 and 20 years, the length of imprisonment depending on the gravity of the offence.*²²
- Under **Section 10(a) of the Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination Act**, any person who commits an act of child abuse, cruelty or exploitation, or is 'responsible for other conditions prejudicial to a child's normal development' *will be penalised in the same way as they would be under the relevant article/s in the Revised Penal Code.* This includes **Article 262** relating to 'mutilation'. *The term of imprisonment will be longer (up to 40 years) when the victim is under 12 years of age.* **Section 31(f)** of this Act states that, where the court imposes a penalty of a fine, it will be administered as a cash fund by the Department of Social Welfare and Development and disbursed for the benefit of the child victim.²³
- Under **Section 6(a) of the Violence Against Women and their Children Act**, crimes of violence against women and their children are punishable under various rules, but if the offence is 'mutilation' (as define in **Article 262 of the Revised Penal Code**), it will be *punishable in accordance with the Revised Penal Code* (see above). Acts of violence resulting in less serious injury can result in *imprisonment for between one month and six years.* If the acts of violence are committed while the woman or child is pregnant, or committed against a woman in the presence of her child, *the penalty will be the maximum available.*

In addition to imprisonment, the perpetrator may have to pay a *fine (of between one hundred and three hundred thousand pesos) and undergo mandatory psychological counselling or psychiatric treatment, with a report on compliance being made to the court.*²⁴

- Under **Section 30 of the Violence Against Women and their Children Act**, any barangay official or law enforcer who fails to report an incident shall be liable for a *fine not exceeding 10,000 pesos.*²⁵

Implementation of the Law

Court Cases

There have been no prosecutions for the offence of FGC in the Philippines under any of the laws described above.

Role of the State

See also Appendix III.

The State is required to establish mechanisms to protect and provide for its citizens under various pieces of legislation. These are as follows.

Constitution of the Republic of the Philippines²⁶

Under **Article II, Section 11**: 'The State values the dignity of every human person and guarantees full respect for human rights.'

Under **Article II, Section 15**: 'The State shall protect and promote the right to health of the people and instil health consciousness among them.'

Under **Article XIII, Section 17**:

(1) There is hereby created an independent office called the Commission on Human Rights.

[. . .]

(3) Until this commission is constituted, the existing Presidential committee on Human Rights shall continue to exercise its present functions and powers.

Under **Article XIII, Section 18**:

The Commission on Human Rights shall have the following powers and functions:

[. . .]

(3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection

Under **Article XV, Section 3**:

The State shall defend:

[. . .]

(2) The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development

Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination²⁷

Article I, Section 2 (Declaration of State Policy and Principles) confirms that it is the State's policy to provide 'special protection to children from all [forms] of abuse, neglect, cruelty[,] exploitation and discrimination and other conditions prejudicial to their development'. This section also provides sanctions for their commission and commits the State to carrying out a programme for prevention and deterrence of (and crisis intervention in situations of) child abuse, exploitation and discrimination.

Article II, Section 4 requires the Department of Justice and Department of Social Welfare and Development, in coordination with other relevant government and private-sector agencies, to formulate 'a comprehensive programme' to protect children against 'child prostitution and other sexual abuse; child trafficking, obscene publications and indecent shows; other acts of abuse; and circumstances which endanger child survival and normal development.'

Article IX, Section 18 requires the Department of Education, Culture and Sports to develop and implement 'an alternative system of education for children of indigenous cultural communities' that meets the culture-specific needs of those children, taking into account the different aspects of their communities. The Department is also tasked with accrediting and supporting non-formal indigenous educational programmes conducted by NGOs in these communities. These powers could be important in advocating for the State to put in place a programme of education and awareness-raising about the health risks and other harms of FGC in communities where it is practised.

Violence Against Women and their Children Act²⁸

Under **Section 32**, government agencies and local government units can establish 'education and information campaign[s] and seminars or symposia on the nature, causes, incidence and consequences of [violence against women and children], particularly towards educating the public on its social impacts.' These government agencies and local government units are also required to 'ensure the sustained education and training of their officers and personnel on the prevention of violence against women and their children under this Act.'

Section 39 requires the State to establish an Inter-Agency Council on Violence Against Women and their Children.

Magna Carta of Women²⁹

Chapter VI, Section 38 of the Magna Carta of Women refers to the Philippine Commission on Women (*PCW*) as ‘the primary policy-making and coordinating body of the women and gender equality concerns under the Office of the President’. The PCW is responsible for overall monitoring and oversight to ensure the implementation of the Act.

Chapter VI, Section 39 requires the Commission on Human Rights to task the Gender and Development Ombud to monitor the PCW and other relevant state agencies and designate a commissioner to be ‘primarily responsible for formulating and implementing programmes and activities related to the promotion and protection of human rights of women’.

These Articles of the Magna Carta reflect the State’s responsibility to all Filipino women, alongside any specific provisions made by the Bangsamoro Parliament in relation to Muslim women living in the BARMM.

Conclusions

The Philippines has no specific law or legislation banning FGC. However, there are various general laws containing provisions that could potentially apply to cases of FGC, depending on the circumstances and the degree of harm inflicted. These include the following.

- **The Revised Penal Code of the Philippines:** FGC would fall under the definition of ‘mutilation’ in **Article 262**. This is the most applicable legislation to FGC, as it references ‘intentional mutilation’ of ‘some essential organ for reproduction’ and provides specific penalties.
- **The Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination Act** may extend protection to victims of FGC if they are children. In particular, FGC may be classed as physical abuse and emotional abuse, or lead to circumstances that endanger the normal development of the child.
- **Section 5(a) of the Violence Against Women and their Children Act** criminalises violence against women and their children, including causing, threatening or attempting to cause the woman or her child physical harm. This may be interpreted to include the practice of FGC. There are specific penalties for acts of violence that result in ‘mutilation’ and provisions that provide support and protection for victims of violence, including protection orders.

Recommendations

Orchid Project recommends that:

1. as a first step, **a national survey be** conducted to confirm the extent of FGC in the Philippines 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 Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination act be amended** to include FGC as a specific criminalised offence for which parents and guardians can be held responsible, and to increase the capacity of police and judicial authorities to guarantee the protection of girls and women at risk of FGC;
3. **the Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination act be further amended** to criminalise the procurement of FGC and aiding/abetting it, provide specific penalties for people who arrange and/or undertake FGC on a girl or women or fail to report its occurrence or likely occurrence; and
4. the Department 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 perform FGC may lose their licences to practise if they continue to do so. They may also be subject to criminal proceedings under Article 262 or 265 of the Penal Code (or the Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination act, if it is amended as above).

Appendix I:

International and Regional Treaties

The Philippines	Signed?	Ratified/ Acceded?	Reservations on Reporting? Yes/No
International			
Convention on the Elimination of All Forms of Discrimination against Women (1979)	Yes, 15 July 1980	Yes, 5 August 1981	No
Convention on the Rights of the Child (1989)	Yes, 26 January 1990	Yes, 21 August 1990	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.³⁰

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.³¹

References

- 1 Salmah Lao Manalocon Basher (2016a) 'The Stages of Female Circumcision Practice among Meranaos Living in the Rural and Marginalized Areas in Lanao', p.69, *International Journal of Humanities and Social Sciences*, 8(2), pp.67–75. Available at <https://www.ijhss.net/index.php/ijhss/article/view/157>.
- 2 World Health Organization (2024) *Female genital mutilation*, 5 February. Factsheet. Available at <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>.
- 3 Republic of the Philippines, Philippine Statistics Authority (2021) *Highlights of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) Population 2020 Census of Population and Housing (2020 CPH)*. Available at <https://psa.gov.ph/content/highlights-bangsamoro-autonomous-region-muslim-mindanao-barmm-population-2020-census>.
- 4 Republic of the Philippines, Philippine Statistics Authority (2020) *Religious Affiliation in the Philippines (2020 Census of Population and Housing). 2023-70*. Available at <https://psa.gov.ph/content/religious-affiliation-philippines-2020-census-population-and-housing>.
- 5 - CARE Philippines, Leading Individuals to Flourish and Thrive, Inc. (LIFT) and Nisa Ul-Haqq Fi Bangsamoro, Inc. (Women for Justice in the Bangsamoro) (2021) *Pag-Islam: An Exploratory Action Research on Female Genital Mutilation/Cutting Practices in the Bangsamoro Region, Philippines*, p.13. Available at <https://care-philippines.org/wp-content/uploads/2021/10/CARE-Philippines-FGMC-Research-March-2021.pdf>.
Hereinafter referred to as 'CARE/LIFT/Women for Justice'.
- Basher (2016a), *op. cit.*, p.69.
- 6 - Sittinurussamsi A. Calsalin (2008) *Female Circumcision among Yakan in Basilan, Philippines: A research paper presented to the Faculty of the Graduate School Ateneo de Zamboanga University, in partial fulfilment of the requirements for the degree of Master in Public Health*, p.28. Available at <https://www.locjkt.or.id/application/docliblckjt/upload/2008-06-25-135433casalin,s..pdf>.
- Salmah Lao Manalocon Basher (2016b) 'Women Who Study in Madrasah School Experienced Higher Number of Female Circumcision Compared to Western or English Schools', pp.17–18, *JPAIR Multidisciplinary Research*, 25. Available at <https://philair.ph/index.php/jpair/article/view/386/pdf>.
- 7 Sittinurussamsi A. Calsalin, *op. cit.*, p.28.
- 8 CARE/LIFT/Women for Justice, p.15.
- 9 Salmah Leo Manalocon Basher (2016b), *op. cit.*, pp.17–18.
- 10 Olga Czarina Velayo Belisario (2009) 'Muslim Women and Circumcision: "A Study of Intergenerational Practice and its Continuity in Southern Philippines"', p.7, *Western Mindanao State University's Research Journal*, 28(1). Available at <https://ejournals.ph/article.php?id=6955>.
- 11 **Presidential Decree No. 1083, Article 16, paragraphs 1–2: 'Capacity to contract marriage. — (1) Any Muslim male at least fifteen years of age and any Muslim female of the age of puberty or upwards and not suffering from any impediment under the provisions of this Code may contract marriage. A female is presumed to have attained puberty upon reaching the age of fifteen. (2) However, the Shari'a District Court may, upon petition of a proper wali, order the solemnization of the marriage of a female who though less than fifteen but not below twelve years of age, has attained puberty.'**
Presidential Decree No. 1083: A Decree to Ordain and Promulgate a Code Recognizing the System of Filipino Muslim Laws, Codifying Muslim Personal Laws, and Providing for its Administration and For Other Purposes (1977) Available at https://lawphil.net/statutes/presdecs/pd1977/pd_1083_1977.html.

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- 12 CARE/LIFT/Women for Justice, p.4.
- 13 *Republic Act No. 3815: An Act Revising the Penal Code and Other Penal Laws. Preliminary Article (1930)* Available at <https://www.officialgazette.gov.ph/1930/12/08/act-no-3815-s-1930/>.
- 14 *Republic Act No. 7610: An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and For Other Purposes (1992)* Available at <https://www.officialgazette.gov.ph/1992/06/17/republic-act-no-7610/>.
- 15 *Presidential Decree No. 1083: A Decree to Ordain and Promulgate a Code Recognizing the System of Filipino Muslim Laws, Codifying Muslim Personal Laws, and Providing for its Administration and For Other Purposes (1977)*, *op. cit.*
- 16 *Republic Act no. 9710: An Act Providing for the Magna Carta of Women (2008)* Available at <https://www.officialgazette.gov.ph/2009/08/14/republic-act-no-9710-2/>.
- 17 *Presidential Decree No. 1083 (1977)*, *op. cit.*
- 18 *Ibid.*
- 19 *Republic Act No. 9262: An Act Defining Violence Against Women and their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes (2004)* Available at <https://www.officialgazette.gov.ph/2004/03/08/republic-act-no-9262-s-2004/>.
- 20 ***Barangay officials are the elected and appointed officials that make up the council of a barangay. A barangay is the smallest administrative division in the Philippines and plays a vital role in the country's local governance. Barangay councils contribute to maintaining peace and order through amicable settlement of disputes arising within the community. See The Role of the Barangay Level of Government in the Philippines – foreignersandfilipinas.com.***
- 21 Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child (2019) *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. CEDAW/C/GC/31/Rev.1CRC/C/GC/18/Rev.1. Available at <https://documents.un.org/doc/undoc/gen/g19/134/42/pdf/g1913442.pdf>.
- 22 *Republic Act No. 3815 (1930)*, *op. cit.*
- 23 *Republic Act No. 7610 (1992)*, *op. cit.*
- 24 *Republic Act No. 9262 (2004)*, *op. cit.*
- 25 *Ibid.*, *op. cit.*
- 26 *The Constitution of the Republic of the Philippines (1987)* Available at <https://www.officialgazette.gov.ph/constitutions/1987-constitution/>.
- 27 *Republic Act No. 7610 (1992)*, *op. cit.*
- 28 *Republic Act No. 9262 (2004)*, *op. cit.*
- 29 *Republic Act No. 9710 (2008)*, *op. cit.*
- 30 ***Available at <https://www.refworld.org/legal/general/cedaw/1990/en/27729>.***
- 31 Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child (2019), *op. cit.*

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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