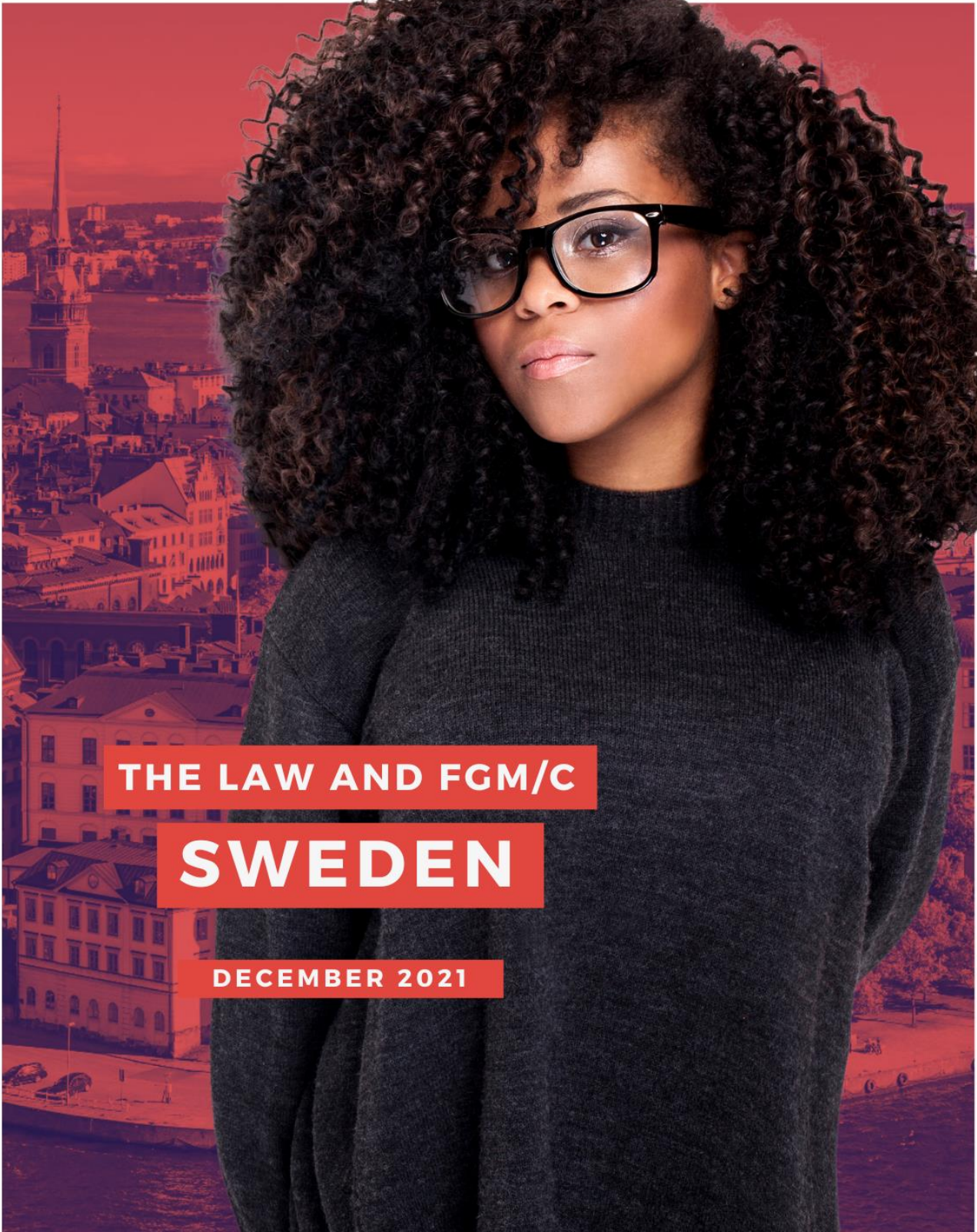




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FGM... let's end it.

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THE LAW AND FGM/C

SWEDEN

DECEMBER 2021

National Legal Framework

Overview of National Legal Framework in Sweden

National legislation:

- ✓ Specific law/provision criminalising FGM/C
- ✓ Provides a definition of FGM/C
- ✓ Criminalises the performance of FGM/C
- ✓ Criminalises the procurement, arrangement and/or assistance of acts of FGM/C
- ✓ Obligation to report incidents of FGM/C to the authorities
- ✓ Criminalises the participation of medical professionals in acts of FGM/C
- ✓ Extraterritorial application regardless of double criminality

Introduction

Sweden is a country in northern Europe with an estimated population of 10.4 million. Sweden is a constitutional monarchy with parliamentary democracy and has a civil-law legal system that is typical for Western Europe, of which both written law and case law constitute important parts.¹

FGM/C Prevalence

In 2012, the National Board of Health and Welfare estimated that 38,000 girls and women had undergone female genital mutilation/cutting (FGM/C) in Sweden. Around 7,400 of those girls and women were minors up to the age of 18.²

In 2011, a study by the European Institute for Gender Equality estimated that between 2,016 (low-risk scenario) and 11,145 girls (high-risk scenario) out of the 59,409 girls residing in Sweden whose families originated from FGM/C-practising countries were likely to be at risk of FGM/C. The same study showed that 34,910 out of the 59,409 girls were aged nine or under, and the remaining 24,599 girls were aged 10 to 18. About 80% of these girls' families originated from Iraq, Somalia and Ethiopia, with smaller groups from Eritrea, Gambia and Egypt. Most of the girls were, however, born in Sweden.³

National Legal Framework

Specific Law

FGM/C is criminalised in Sweden under a specific law and general criminal law.

Section 1 of the 1982:316 Act prohibiting female genital mutilation (the *FGM Act*) criminalises any intervention to the female external genitalia for the purpose of mutilating it or inflicting any other permanent changes to the female external organs. **Section 1 of the FGM Act** prescribes that consent does not create an exemption from the penalty.

Section 2(2) prescribes a lesser penalty for the performance of ‘less severe FGM’ as elaborated on in Section 1. **Section 2(3)** prescribes a harsher penalty for the performance of ‘more severe FGM’ as elaborated on in Section 1. **Section 2(3)** prescribes that the assessment of whether the offence was severe or not depends on whether the genital mutilation was particularly extensive, whether it caused danger or serious illness to the life of a victim, or whether the perpetrator acted in an extremely reckless manner.

Section 2(4) prescribes that actions of attempt, preparation, instigation, and failure to disclose or prevent the performance of FGM/C are punishable in accordance with **Chapter 23 of the Criminal Code of the Kingdom of Sweden (1962, amended 2021)** (the *Criminal Code*).

Section 1 of the 1999:997 Act regarding Special Representative for a Child prescribes that if there is a reason to believe that FGM/C was performed against someone younger than 18 years of age and it is feared that a custodian will not safeguard the rights of the child, a special representative is to be appointed. This law enables a genital examination by a medical professional, even if the child’s parents object to it.⁴

Definition of FGM/C

‘FGM’ is defined by **Section 1 of the FGM Act** as an intervention to the female external genitalia for the purpose of mutilating it or inflicting any other permanent changes to the female external organs. The definition in the FGM Act is in line with the definition given by the World Health Organization, which defines ‘FGM’ as involving the partial or total removal of external female genitalia or other injury to the female genital organs for non-medical reasons.⁵

Women and Girls of All Ages

The performance of FGM/C on women and girls of all ages has been criminalised in Sweden. **Sections 1 and 2 of the FGM Act** do not contain any age restrictions.

Procuring, Aiding and Abetting

Procuring, aiding and abetting FGM/C are criminalised in Sweden under the **FGM Act** and general criminal law. **Section 2(4) of the FGM Act** criminalises attempting, preparing or instigating FGM/C in accordance with **Chapter 23 of the Criminal Code**.

Procuring FGM/C – when someone has a cutter (or any other person) perform FGM/C on the victim – is criminalised under **Sections 2(1)(1) and 2(1)(2), Chapter 23 of the Criminal Code**, as is abetting FGM/C. **Section 2(1)(1), Chapter 23** prescribes that a person who hires another person to perform a criminal offence is punishable for conspiring to commit a crime. **Section 2(1)(2), Chapter 23** prescribes that a person who procures FGM/C is punishable for the preparation of a crime, unless that person is the perpetrator in a completed or attempted crime.

Aiding FGM/C is criminalised under **Section 4(2), Chapter 23**, which prescribes that aiding a crime in any way is punishable by law. **Section 4(3), Chapter 23** prescribes that such persons are ‘accomplices to a crime’ and are punishable based on the individually attributable intention.

Section 4(1), Chapter 23 prescribes a penalty for anyone who promotes a criminal offence by advice or deed. **Sections 4(2) and 4(3), Chapter 23** prescribe that persons who instigate or in any way aid a crime are ‘accomplices to a crime’ and are, therefore, punishable by law based on the individually attributable intention.

Allowing the Use of Premises

Allowing the use of premises for the purpose of FGM/C is most likely criminalised in Sweden under the **FGM Act** and general criminal law.

Section 2(4) of the FGM Act prescribes that preparation for a crime is punishable in accordance with **Chapter 23 of the Criminal Code**. **Section 2(1)(2), Chapter 23 of the Criminal Code** criminalises any type of facilitation of FGM/C services. Allowing the use of premises could qualify as ‘facilitation’ of FGM/C by providing the means and opportunity for FGM/C and is, therefore, criminalised under **Section 2(1)(2), Chapter 23 of the Criminal Code**.

Providing or Possessing Tools

Providing (specific) tools for the purpose of FGM/C is most likely criminalised in Sweden under the **FGM Act** and general criminal law. **Section 2(4) of the FGM Act** prescribes that preparation for a crime is punishable in accordance with **Chapter 23 of the Criminal Code**. **Section 2(1)(2), Chapter 23 of the Criminal Code** criminalises producing or giving any means that can be used as an instrumentality of a crime. Providing (specific) tools could qualify as ‘providing the means for an offence’ and is, therefore, criminalised under **Section 2(1)(2), Chapter 23 of the Criminal Code**.

Possessing (specific) tools for the purpose of FGM/C has most likely been criminalised in Sweden. **Section 2(1)(2), Chapter 23 of the Criminal Code** prescribes that preparation for a crime, including giving, keeping, transporting or in any other way handling anything that could be used as an instrumentality of an offence, is punishable as a ‘preparatory act’ for an offence. Possessing (specific) tools could fall under the definition of a ‘preparatory act’ under **Section 2(1)(2), Chapter 23**.

Failure to Report FGM/C

Failing to report FGM/C is criminalised in Sweden under the **FGM Act** and general criminal law.

Section 2(4) of the FGM Act prescribes that the failure to report FGM/C is punishable in accordance with **Chapter 23 of the Criminal Code**. **Section 6, Chapter 23 of the Criminal Code** criminalises the failure to report a crime, considering the role a person plays in an offence – *inter alia*, if a person is an accomplice to an offence to a minor extent.

Section 6, Chapter 23 of the Criminal Code prescribes that unintentional failure to disclose the performance of FGM/C, where the person should have realised the risk for the offence, is punishable with the same penalty established for the intentional failure to report FGM/C.

Section 1, Chapter 14 of the (2001:453) Social Services Act prescribes that professionals working in private services that affect children and young persons, including medical care or social services, have an obligation to notify the social welfare committee if they are aware of a child or a young person at risk.

There is a legal responsibility for the general public to report instances of performed or planned FGM/C to the social authorities, which may then make a report to the police.⁶

Medicalised FGM/C

While the **FGM Act and the Criminal Code** do not contain specific provisions on medicalised FGM/C, nor on malpractice by a licensed medical professional or medical quackery, medicalised FGM/C is included in the general definition under **Section 1 of the FGM Act**. **Section 1** criminalises any intervention to the female external genitalia for the purpose of mutilating it or inflicting any other permanent changes to the external female genitals.

Extraterritoriality

The **Criminal Code** extends the applicability of Swedish criminal law and jurisdiction to the commission of FGM/C abroad and contains an exception regarding the general requirement for double criminalisation.

The requirements for a Swedish court to be able to judicially review crimes that have been committed outside of Sweden are stated in **Chapter 2 of the Criminal Code**, which was revised in 2022. **Section 3(2), Chapter 2** prescribes that Swedish courts are competent to judicially review crimes committed outside of Sweden under certain conditions. Examples of these conditions are if the perpetrator is Swedish (a citizen or resident), if there is a Swedish interest at hand (for example, if the victim is a Swedish citizen) or if the crime constitutes a special international crime (an example that is mentioned in the provision is acts that may constitute torture in accordance with the UN Convention Against Torture).

Violations of the **FGM Act** are exempt from the general requirement of double criminality (that the criminal act must also be criminalised in the country where the act was carried out) according to **Section 5(f), Chapter 2 of the Criminal Code**.

Penalties

There are penalties for committing FGM/C and crimes related to it in Sweden.

- **Section 2(1) of the FGM Act** prescribes a sentence of *up to six years' imprisonment* for an intervention to the female external genitalia for the purpose of mutilating or inflicting any other permanent changes to the female external organs.
- **Section 2(2) of the FGM Act** prescribes a sentence of *up to four years' imprisonment* for a less severe intervention to the female external genitalia for the purpose of mutilating or inflicting any other permanent changes to the female external organs.
- **Section 2(3) of the FGM Act** prescribes a sentence of *up to ten years' imprisonment* for a more severe intervention to the female external genitalia for the purpose of mutilating or inflicting any other permanent changes to the female external organs.

The penalty for preparation or conspiracy to commit a crime may be lesser than the maximum penalty for the completed crime and may also be lower than the lowest penalty prescribed for the completed crime under **Section 2(3), Chapter 23 of the Criminal Code**.

Section 2(3), Chapter 23 of the Criminal Code prescribes that a more severe penalty than imprisonment for two years may be given if the completed offence is punishable for *at least six years' imprisonment*.

However, **Section 2(4), Chapter 23 of the Criminal Code** prescribes that if the offence caused only minor danger or the act did not result in severe consequences, the person who prepares or conspires to commit a crime is *not punishable*.

Section 6, Chapter 23 of the Criminal Code prescribes a sentence of *up to two years' imprisonment* for the failure to report a crime.

Protection

Protecting Uncut Girls and Women

Section 1a, Chapter 5 of the Social Services Act prescribes that the social welfare committee has an obligation to ensure cooperation with public institutions and organisations to protect children who are suffering abuse or are at risk of suffering abuse. **Section 1, Chapter 3 of the Social Services Act** prescribes that the municipal social welfare committee has an obligation to provide care and service, information, support, counselling, financial assistance or any other assistance for the persons in need.

Section 6(2) of the 1990:52 Care of Young Persons (Special Provisions) Act (the *Young Persons Act*) prescribes that the social welfare committee may take a person under the age of 20 years into custody if danger is established to her health or development. The Swedish Board of Health and Welfare elaborated that the Young Persons Act may be applicable if a girl is at risk of FGM/C and there is no other way to protect her.⁷

Government Obligations

In June 2018, the Swedish Government adopted a **national action plan** to combat FGM/C. The action plan is part of Sweden's efforts to implement the **Istanbul Convention**. Some measures are directly intended to prevent and combat FGM/C, while others are part of broader efforts to combat violence against women. Prevention efforts are intended to target not only people living in Sweden, but also those who recently arrived in Sweden. The action plan is mostly directed at health services, social services and schools, where professionals have an obligation to provide a professional response and take further action to support and protect girls and women who are at risk of or have already undergone FGM/C.

The Swedish Government has issued **grants** for projects and information campaigns concerning gender equality, health and sexuality.⁸

Implementation of The Law

Court Cases

To date, there are only a few convictions under the **FGM Act** in Sweden known to 28 Too Many.

In one case, which took place in 2006, the father was convicted in Sweden after subjecting his daughter to Type II FGM/C (according to the World Health Organization's categories) in Somalia. However, flaws have been noted in how the Swedish criminal court assessed the evidence of this case. The father was convicted despite insufficient and contradictory circumstantial evidence.⁹

Another case from 2006 involved a 16-year-old girl reporting to her school welfare officer that she had been physically abused by her Somali-born mother. The girl reported that, for a few years, her mother had beaten her with different objects, even at times when she was asleep. The girl also reported that her mother subjected her to FGM/C when she was 11 years old during a visit to Somalia and afterwards performed several genital examinations to ensure that she was still a virgin. This instance was reported to the social authorities, who then reported the case to the police. An examination by a medical professional during the investigation established that Type I FGM/C had been performed to the girl's clitoris. The mother was sentenced to three years' imprisonment for FGM/C and severe violation of integrity.¹⁰

In a recent case from 2022, Skövde District Court stated that there are very few legal cases in Sweden involving FGM/C. In this case, a father was convicted of subjecting his two daughters to FGM/C. The crime was committed in Egypt by a doctor, when the girls were very young, and it could not be determined exactly how old the girls were when the FGM/C was committed. The father was sentenced to ten months in prison. Similarly to the case above, the legal investigation was initiated after a report from the victims' school welfare officer.¹¹

Conclusions and Recommendations

Conclusions

FGM/C is criminalised in Sweden through a specific law, the **1982:316 Act prohibiting female genital mutilation**.

The definition of 'FGM' maintained in the law covers all **types of FGM/C** and is in line with the WHO's definition; however, it omits the criterion of FGM/C being performed for non-medical reasons. **Medicalised FGM/C** is not specifically addressed, but is likely to be covered by the general criminality of FGM/C.

Procuring, aiding and abetting FGM/C are criminalised in Sweden under the FGM Act and general criminal law.

The **failure to report** FGM/C is criminalised in Sweden under the FGM Act and general criminal law. There is an obligation for members of the general public to report to the authorities the possibility of FGM/C being performed in the future, or that FGM/C that has already been performed.

The Criminal Code, in conjunction with the FGM Act, enables an **extraterritorial** reach of Swedish criminal law to the performance of FGM/C abroad, without a requirement of double criminality or the Swedish nationality or resident status of the perpetrator or victim.

Recommendations

We recommend that Sweden instate a system similar to the British Female Genital Mutilation Protection Orders to guarantee the efficient protection of girls and women at risk of FGM/C and other harmful traditional practices.

Appendix I: International and Regional Treaties

| SWEDEN | Signed | Ratified/ Acceded | Reservations on reporting? |
|--|-----------|----------------------|-------------------------------|
| International | | | |
| International Covenant on Civil & Political Rights (1966) (<i>ICCPR</i>) ¹² | ✓ 1967 | ✓ 1971 | No |
| International Covenant on Economic, Social & Cultural Rights (1966) (<i>ICESCR</i>) ¹³ | ✓ 1967 | ✓ 1971 | No |
| Convention on the Elimination of All forms of Discrimination Against Women (1979) (<i>CEDAW</i>) ¹⁴ | ✓ 1980 | ✓ 1980 | No |
| Convention on the Rights of the Child (1989) (<i>CRC</i>) ¹⁵ | ✓ 1990 | ✓ 1990 | No |
| Regional | | | |
| Istanbul Convention ¹⁶ | ✓ 2011 | ✓ 2014 | Yes* |
| European Convention on Human Rights ¹⁷ | ✓ 1950 | ✓ 1952 | No |

* Reservations to Art. 44, para 3 regarding jurisdiction and Art. 58 regarding statute of limitation.

‘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: National Laws

Criminal Code

Section 3, Chapter 2

Svensk domstol är i följande fall behörig att döma över brott som har begåtts utanför Sverige:

[. . .]

(2) Brottsom har begåtts:

- a) av någon som vid gärningstillfället var svensk medborgare eller hade hemvist i Sverige,
- b) av någon som när åtal väcks för brottet är svensk medborgare eller har hemvist i Sverige,
- c) av någon som finns i Sverige och det på brottet enligt svensk rätt kan följa fängelse i mer än sex månader, eller

[. . .]

(6) Brottsom:

[. . .]

- h) omfattas av tortyrbegreppet enligt artikel 1 i Förenta nationernas konvention den 10 december 1984 mot tortyr och annan grym, omänsklig eller förnedrande behandling eller bestraffning, eller försök till sådant brott.

Section 5, Chapter 2

I de fall som avses i 3 § 2, 3 och 5 är svensk domstol behörig endast om gärningen är straffbar även enligt lagen på gärningsorten (dubbel straffbarhet). Om brottet har begåtts på flera staters område är kravet på dubbel straffbarhet uppfyllt om gärningen är straffbar enligt lagen på någon av gärningsorterna. Det får inte dömas till påföljd som är strängare än det svåraste straff som är föreskrivet för brottet enligt lagen på gärningsorten. Första stycket gäller inte:

[. . .]

- f) 2 § lagen (1982:316) med förbud mot könsstympning av kvinnor.

Section 1, Chapter 23

Har någon påbörjat utförandet av visst brott utan att detta kommit till fullbordan, skall han i de fall särskilt stadgande givits därom dömas för försök till brottet, såframt fara föreligger att handlingen skulle leda till brottets fullbordan eller sådan fara endast på grund av tillfälliga omständigheter varit utesluten.

Straff för försök bestämmes högst till vad som gäller för fullbordat brott och må ej sättas under fängelse, om lägsta straff för det fullbordade brottet är fängelse i två år eller däröver.

Section 2, Chapter 23

Den som, med uppsåt att utföra eller främja brott,

1. tar emot eller lämnar pengar eller annat som betalning för ett brott eller för att täcka kostnader för utförande av ett brott, eller
2. skaffar, tillverkar, lämnar, tar emot, förvarar, transporterar, sammanställer eller tar annan liknande befattning med något som är särskilt ägnat att användas som hjälpmedel vid ett brott, ska i de fall det särskilt anges dömas för förberedelse till brottet, om han eller hon inte har gjort sig skyldig till fullbordat brott eller försök.

I de fall det särskilt anges döms för stämpling till brott. Med stämpling förstås att någon i samråd med någon annan beslutar gärningen eller att någon söker anstifta någon annan eller åtar eller erbjuder sig att utföra den.

Straffet för förberedelse eller stämpling ska bestämmas under den högsta och får sättas under den lägsta gräns som gäller för fullbordat brott. Högre straff än fängelse i två år får bestämmas endast om fängelse i sex år eller mer kan följa på det fullbordade brottet.

Om faran för att brottet skulle fullbordas var ringa eller om gärningen med hänsyn till andra omständigheter är mindre allvarig, ska det inte dömas till ansvar.

Section 4, Chapter 23

Ansvar som i denna balk är föreskrivet för viss gärning skall ådömas inte bara den som utfört gärningen utan även annan som främjat denna med råd eller dåd. Detsamma skall gälla beträffande i annan lag eller författning straffbelagd gärning, för vilken fängelse är föreskrivet.

Den som inte är att anse som gärningsman döms, om han har förmått annan till utförandet, för anstiftan av brottet och annars för medhjälp till det.

Varje medverkande bedöms efter det uppsåt eller den oaktsamhet som ligger honom till last. Ansvar som är föreskrivet för gärning av syssloman, gäldenär eller annan i särskild ställning skall ådömas även den som tillsammans med honom medverkat till gärningen.

Vad som sägs i denna paragraf skall inte gälla, om något annat följer av vad för särskilda fall är föreskrivet.

Section 6, Chapter 23

Den som underlåter att i tid anmäla eller annars avslöja ett förestående eller pågående brott ska, i de fall det är särskilt föreskrivet, dömas för underlåtenhet att avslöja brottet enligt vad som är föreskrivet för den som medverkat endast i mindre mån till sådant brott. Högre straff än fängelse i två år får dock inte dömas ut. I de fall det är särskilt föreskrivet ska för underlåtenhet att avslöja brott även den dömas som inte haft uppsåt till men borde ha insett att brottet var förestående eller pågick.

Den som har ett bestämmande inflytande i en sammanslutning och underlåter att förhindra ett brott inom ramen för sammanslutningen ska, i de fall det är särskilt föreskrivet, dömas för underlåtenhet att förhindra brottet enligt första stycket.

För underlåtenhet att förhindra brott döms också en förälder eller annan uppfostrare eller förmyndare som underlåter att hindra den som står under hans eller hennes vård eller lydnad från att begå brott.

Ansvar för underlåtenhet att avslöja eller förhindra brott förutsätter att

1. gärningen har fortskridit så långt att den är straffbar, och
2. brottet kan avslöjas eller förhindras utan fara för den handlande eller för någon annan och, i fall som avses i tredje stycket, att brottet kan förhindras utan anmälan till myndighet.

Act Prohibiting Female Genital Mutilation (1982:316) (The FGM Act)

Section 1

Ingrepp i de kvinnliga yttre könsorganen i syfte att stympa dessa eller åstadkomma andra bestående förändringar av dem (könsstympning) får inte utföras, oavsett om samtycke har lämnats till ingreppet eller inte.

Section 2

Den som bryter mot 1 § döms till fängelse i lägst två och högst sex år.

Är brottet med hänsyn till omständigheterna mindre grovt, döms till fängelse i högst fyra år.

Är brottet grovt, döms till fängelse i lägst fem och högst tio år. Vid bedömningen av om brottet är grovt ska det särskilt beaktas om könsstympningen är särskilt omfattande eller om gärningen har orsakat livsfara eller allvarlig sjukdom eller om gärningsmannen i annat fall har visat synnerlig hänsynslöshet.

För försök, förberedelse och stämpling samt för underlåtenhet att avslöja eller förhindra brott döms det till ansvar enligt 23 kap. brottsbalken.

Social Services Act (2001:453)

Section 1, Chapter 3

Till socialnämndens uppgifter hör att

- göra sig väl förtrogen med levnadsförhållandena i kommunen,
- medverka i samhällsplaneringen och i samarbete med andra samhällsorgan, organisationer, föreningar och enskilda främja goda miljöer i kommunen,
- informera om socialtjänsten i kommunen,
- genom uppsökande verksamhet och på annat sätt främja förutsättningarna för goda levnadsförhållanden,
- svara för omsorg och service, upplysningar, råd, stöd och vård, ekonomisk hjälp och annat bistånd till familjer och enskilda som behöver det.

Section 1a, Chapter 5

Socialnämnden ska i frågor som rör barn som far illa eller riskerar att fara illa samverka med samhällsorgan, organisationer och andra som berörs. Ifråga om utlämnande av uppgifter gäller de begränsningar som följer av 15 kap. denna lag och av offentlighets- och sekretesslagen (2009:400). Nämnden ska aktivt verka för att samverkan kommer till stånd.

Section 1, Chapter 14

Följande myndigheter och yrkesverksamma är skyldiga att genast anmäla till socialnämnden om de i sin verksamhet får kännedom om eller misstänker att ett barn far illa:

1. myndigheter vars verksamhet berör barn och unga,
2. andra myndigheter inom hälso- och sjukvården, annan rättspsykiatrisk undersökningsverksamhet, socialtjänsten, Kriminalvården, Polismyndigheten och Säkerhetspolisen,
3. anställda hos sådana myndigheter som avses i 1 och 2, och
4. de som är verksamma inom yrkesmässigt bedriven enskild verksamhet och fullgör uppgifter som berör barn och unga eller inom annan sådan verksamhet inom hälso- och sjukvården eller på socialtjänstens område.

De som är verksamma inom familjerådgivning är skyldiga att genast anmäla till socialnämnden om de i sin verksamhet får kännedom om att ett barn utnyttjas sexuellt eller utsätts för fysisk eller psykisk misshandel i hemmet.

Myndigheter, befattningshavare och yrkesverksamma som anges i första stycket är skyldiga att lämna socialnämnden alla uppgifter som kan vara av betydelse för utredning av ett barns behov av stöd och skydd.

Om anmälan från Barnombudsmannen gäller bestämmelserna i 7 § lagen (1993:335) om Barnombudsman.

Act Regarding Special Representative for a Child (1999:997)

Section 1

När en förundersökning har inletts eller återupptagits i fråga om ett brott som kan leda till fängelse och har begåtts mot någon som är under 18 år, ska en särskild företrädare förordnas för barnet om

1. en vårdnadshavare kan misstänkas för brottet, eller
2. det kan befaras att en vårdnadshavare på grund av sitt förhållande till den som kan misstänkas för brottet inte kommer att ta till vara barnets rätt.

En särskild företrädare ska inte förordnas om det med hänsyn till barnet är obehövt eller särskilda skäl annars talar mot det.

Swedish Care of Young Persons (Special Provisions) Act (1990:52)

Section 6

Socialnämnden får besluta att den som är under 20 år omedelbart skall omhändertas, om

1. det är sannolikt att den unge behöver beredas vård med stöd av denna lag, och
2. rättsens beslut om vård inte kan avvaktas med hänsyn till risken för den unges hälsa eller utveckling eller till att den fortsatta utredningen allvarligt kan försvåras eller vidare åtgärder hindras.

Om socialnämndens beslut om omhändertagande inte kan avvaktas, får nämndens ordförande eller någon annan ledamot som nämnden har förordnat besluta om omhändertagande. Beslutet skall anmälas vid nämndens nästa sammanträde.

När socialnämnden har ansökt om vård med stöd av lagen, får även rätten besluta att den unge omedelbart skall omhändertas.

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Neonshot (undated) *Portrait de la belle afro-américaine jeune fille. Fille avec afro et des lunettes*. 123RF ID 45884783.

Please note that the use of a photograph of any girl or woman in this report does not imply that she has, nor has not, undergone FGM/C.

This report analyses and discusses the application of national (criminal) laws to the commission of FGM/C 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 FGM/C, available legal protective measures for girls and women at risk of FGM/C, and any obligations of national governments in relation to FGM/C.

The initial research conducted for this report consisted of a questionnaire developed by 28 Too Many (part of Orchid Project) and Ashurst LLP. The information contained in the responses to that questionnaire was then reviewed by Middelburg Human Rights Law Consultancy, updated and used as the basis of further research from relevant sources. This report is mainly based on primary legal sources such as legislation, case law and authoritative literature, but does use secondary sources such as government documents, journal articles and newspaper articles.

This report has been prepared as a work of legal research only and does not represent legal advice in respect of any of the laws of Sweden. It does not purport to be complete or to apply to any particular factual or legal circumstance. It does not constitute, and must not be relied or acted upon as, legal advice or create an attorney-client relationship with any person or entity. Neither 28 Too Many, Orchid Project, Ashurst LLP and Middelburg Human Rights Law Consultancy nor any other contributor to this report accepts responsibility for losses that may arise from reliance upon the information contained herein, or any inaccuracies, including changes in the law since the research was completed in August 2021. No contributor to this report holds himself or herself out as being qualified to provide legal advice in respect of any jurisdiction as a result of his or her participation in this project or contribution to this report. Legal advice should be obtained from legal counsel qualified in the relevant jurisdiction/s when dealing with specific circumstances. It should be noted, furthermore, that in many countries there is a lack of legal precedent for the penalties laid out in the law, meaning that, in practice, lesser penalties may be applied.

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