

THE LAW AND FGC

Thailand

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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Recommended citation: Orchid Project and Asia Network to End FGM/C (2024) *The Law and FGC: Thailand*. Available at <https://www.fgmcri.org/country/thailand/>.

Cover image design: Natalia Stafeeva (<https://stafeeva.site/>)

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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

Thailand is a country in South East Asia with a population of over 70 million. It is a constitutional monarchy. The monarch serves as head of state. The government is a parliamentary democracy headed by a prime minister, who represents the major party elected to the House of Representatives. It has a legal system based primarily on civil law, but also influenced by a common law tradition. Its criminal law is primarily set out in Thailand's Criminal Code.¹

A Note on Terminology

The term *sunat*, meaning 'female circumcision', is the term most commonly used in Thailand to refer to female genital cutting (FGC), rather than 'female genital mutilation', as practising communities do not regard the practice to be 'mutilation'. 'FGC', 'sunat' and *khitan* are used interchangeably in this Law Report, according to context.

'The region' is used when referring to similarities in the practice across Malaysia, Singapore and Thailand.

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

No national surveys have been carried out in relation to FGC in Thailand; therefore, there are no official statistics on prevalence available. It is known, however, that some Muslim groups in Thailand practise it, including Malay and Dawoodi Bohra communities.

Muslims comprise between 9% and 10% of Thailand's total population of about 71 million.³ Most Muslims reside in the south of Thailand, where it is estimated that Malay Muslims make up about 75% of the population.

The prevalence of FGC in southern Thailand's Muslim community is believed to be close to that in Kelantan, Malaysia, as the southernmost Thai provinces are culturally and religiously similar to that part of Malaysia. Kelantan has one of the highest FGC prevalence figures in Malaysia (88.5% of women).⁴

A girl born into a Malay-Muslim family in Thailand usually experiences FGC within a couple of weeks of her birth, or no later than her second birthday.⁵ According to academic studies, FGC may be performed on a newborn baby as part of her mother's postnatal care.⁶ However, among Dawoodi Bohras, the usual age of cutting is six or seven years.⁷

Among Malay women across the region the forms of FGC most commonly experienced are Type 1 and Type 4. This is confirmed throughout the research literature, the procedure being variously described as a 'minute cut', 'not "incised or removed"', 'nicked', 'pricked', 'scratched' and 'pierced a little'. The phrase 'just a little' is frequently used to reflect its difference to the more intrusive FGC Types 2 and 3, which occur in some African countries and involve significant cutting away of flesh. The 'little' described by Malay women reflects their view that the type of FGC they experience is not 'mutilation' and should not be treated as such.

Indeed, in news articles, the type of cutting in Thailand has been described as 'just a little' and 'Just an incision to leak some blood[;] no excision of flesh.'⁸ This suggests Type 4. Cutting described in academic articles on FGC in Thailand would also be classified as Type 4, as 'the amount of flesh cut is . . . the size a grain of rice'.⁹

The Dawoodi Bohra in Thailand are understood to reside mainly in and around Bangkok.¹⁰ Again, no survey of FGC prevalence has been carried out on this community in Thailand, but surveys carried out on Dawoodi Bohra women in India¹¹ suggest a prevalence of between 75% and 85%. Among these women in India, FGC is closer to Type 1, although it is not known whether this is the same for Bohra women in Thailand.¹²

National Legal Framework

Applicable General Laws

There is no specific law against FGC in Thailand. However, the performance of FGC might fall under various general criminal laws and codes, depending on the type of cutting and the intentionality to cause harm.

The Criminal Code B.E. 2499 (1956) (as amended 2003)¹³

This refers to offences against the body, as follows.

- **Section 295** states, 'Whoever causes injury to the other person in body or mind is said to commit bodily harm'
- **Section 297** refers to 'grievous bodily harm', which is defined to include the 'loss of genital organs or reproductive ability'.

*FGC Type 4 would most likely result in 'hurt', but removal of the clitoris (Type 1) could be considered the loss of a genital organ and, therefore, 'grievous hurt'. Potentially, both would be prosecutable under Thailand's **Criminal Code**.*

Child Protection Act B.E. 2546 (2003) (as amended)¹⁴

This Act defines and prohibits any act that constitutes child abuse or exploitation. FGC may be considered child abuse if it is performed on a girl under 18 years of age who is not married.

Section 26 states that no person shall act in any way that will affect the physical or mental condition of a child, or wilfully or by neglect cause the livelihood or health of a child to be physically or mentally harmed.

Victims of Domestic Violence Protection Act B.E. 2550 (2007)¹⁵

FGC could potentially be considered a form of domestic violence under the Victims of Domestic Violence Protection Act as it frequently causes physical or mental harm to female members of families (for example, a wife or daughter).

Sections 1–3 define 'domestic violence' as 'any act done with the intention to or in the manner likely to cause harm to the body, mind, or health of a family member or to exert coercion or immoral influence over a family member in order to wrongfully cause him to do, not to do or yield to any act, but not including an act done negligently'.¹⁶

The laws described above apply to all Thai women and girls. However, in four southern states, Sharia law is practised in matters of the family, marriage and inheritance.¹⁷

Procuring, Aiding and Abetting FGC

Section 86 of the Criminal Code states that anyone who assists in or facilitates an offence will be prosecuted and punished with two-thirds of the punishment provided for the main perpetrator of the offence.

Allowing the Use of Premises

There is no law criminalising allowing the use of premises for FGC. However, knowingly allowing one's premises to be used for an offence might be regarded as facilitating that offence, and therefore come under **Section 86 of the Criminal Code**.

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, but knowingly providing such tools might be regarded as assisting in an offence.

Failure to Report FGC

There is no reference in the **Criminal Code** to failing to report a crime.

Under the **Victim of Domestic Violence Protection Act (Section 5)**, a person who witnesses or knows of an act of domestic violence has a duty to notify the Competent Official (i.e. police or a relevant administrative official).

Medicalised FGC

The performance of FGC in medical facilities, or elsewhere, by health professionals is not criminalised; nor has Thailand's Ministry of Health issued any guidelines or warnings to health professionals about taking part in FGC procedures.

Media reports indicate that more girls are undergoing FGC in healthcare facilities, either in hospitals following the girl's birth or in clinics during the following few weeks. Doctors have been quoted as performing between ten and twenty procedures a month, and believing that the procedure, 'if done by a doctor should not be considered mutilation'.¹⁸

This view would appear to be endorsed by Thailand's Government in its State Report to the Committee on the Elimination of Discrimination against Women (CEDAW) for its eighth periodic review, in which it acknowledged the occurrence of FGC in the country and stated that medical professionals were carrying out the procedure, but the Government saw no need to prohibit it:¹⁹

Those who choose to forgo such practice would not be punished or considered sinful. In practice, if [*sic*] the khitan practice involves efforts to reduce pain, and to treat young children. However, this should be subject to the consideration of a qualified medical professional and discouraged. According to inquiries made to hospital administrators and public health officials in the area, there have been no reports so far of any harm that would require medical treatment.²⁰

In Malaysia, over the past couple of decades, Malay girls have more often undergone FGC by doctors and nurses or midwives, and younger mothers have become more likely to arrange for medical professionals to perform FGC.²¹ According to one survey with Malaysian Malay respondents, medical doctors are the most preferred person to perform cutting (73%).²² Another Malaysian Malay survey found that 85.4% of doctors support the continuance of FGC, and 63.9% think it should be doctors who undertake the procedure.²³ The main reasons given for preferring it to be undertaken in clinics, rather than by *bidans* (traditional midwives) are hygiene and less risk of infection.²⁴

Protecting Uncut Girls and Women

There is no provision in the law 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.

Protecting Potential Victims and Witnesses

There are no laws or mechanisms in place for the protection of victims and witnesses in FGC cases, or for potential victims of FGC to obtain protection orders.

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.²⁵*

Penalties

The laws discussed above prescribe various penalties that could be applied to FGC.

The Criminal Code²⁶

- Under **Section 295**, 'Whoever causes injury to the other person in body or mind is said to commit bodily harm and shall be subject to *an imprisonment not exceeding two years or a fine not exceeding forty thousand Baht, or both the imprisonment and the fine.*'
- **Section 297** states, 'Whoever commits bodily harm, and thereby causing the victim to receive grievous bodily harm, shall be subject to *an imprisonment of six months to ten years and a fine from ten thousand Baht to two hundred thousand Baht.*'

As mentioned above, FGC Types 1 and 4, as practised by Malays, are unlikely to be classed as 'grievous bodily harm'; therefore, the penalties under **Section 295** are more likely to be carried out. However, a survey of Dawoodi Bohra women in India found that some had experienced Type 2 FGC, which involves removing a significant amount of flesh (the clitoris). This may be regarded as 'grievous' and therefore merit punishment under **Section 297**.

- **Section 86** sets out penalties for assisting in or facilitating an offence: 'such assistant who is deemed to be a supporter in committing such offence shall be punished by *two-thirds of the punishment as provided for such offence.*'

Child Protection Act²⁷

Under **Section 78**, a person convicted under **Section 26** of wilfully harming or neglecting a child can be *imprisoned for a term not exceeding three months and/or given a fine not exceeding thirty thousand Baht.*

Under this Act, there is no penalty given for failing to report an offence, even though there is a duty to do so, but the penalty for failure to report under **Section 374 of the Criminal Code** may applied.

If another law (for example, the Criminal Code) prescribes a heavier penalty for an offence than does the Child Protection Act, the penalty under the other law shall be imposed. This means that, if the harm done to a child is treated as an offence against the body, the penalty will be increased to that set out in the **Criminal Code**.

Victims of Domestic Violence Protection Act²⁸

Section 4 of this Act states, 'Any person who commits an act which is considered a Domestic Violence shall be liable to *a term of imprisonment not exceeding six months or a fine not exceeding six thousand Baht, or both.*'

However, as with the Child Protection Act, if the offence is for physical assault/an offence against the body under **Section 295 or 297 of the Criminal Code**, the harsher penalty given under the Criminal Code will be applied.

NB: Both the **Child Protection Act** and the **Victims of Domestic Violence Protection Act** provide protection for the reporter of an offence from any civil, criminal and administrative action arising from such a report, but neither prescribes a penalty for failing to report the offence.

Implementation of the Law

Court Cases

There have been no prosecutions in Thailand for the offence of FGC under any of the abovementioned laws.

Role of the State

See also Appendix IV.

Sections 27 and 28 of the Constitution of Thailand B.E. 2560 (2017)²⁹ may have a bearing on the illegality of FGC:

Section 27. All persons are equal before the law and shall have rights and liberties and be protected equally under the law.

[. . .]

Measures determined by the State in order to eliminate an obstacle to or to promote a person's ability to exercise their rights or liberties on the same basis as other persons or to protect or facilitate children, women, the elderly, persons with disabilities or underprivileged persons shall not be deemed as unjust discrimination under paragraph three.

[. . .]

Section 28. A person shall enjoy the right and liberty in his or her life and person.

Section 28 implies that everyone has the right to integrity of their own body.

Since 2017, in its review of Thailand's periodic reports, the CEDAW has expressed 'concern at the persistence of harmful practices based on discriminatory social attitudes, in particular in rural and remote areas, such as female genital mutilation among Muslim communities in the southern border provinces and bride kidnapping.'³⁰ The CEDAW further recommended that the Government of Thailand 'Criminalize female genital mutilation and conduct awareness-raising campaigns, in particular in the southern border provinces, on the adverse effects of such practices on women and girls.'³¹

In 2022 the CEDAW requested further information on the 'measures taken towards criminalizing female genital mutilation and adopting a comprehensive strategy toward its elimination, also targeting traditional and religious leaders, in the light of the Committee's previous concluding observations.'³² The Government responded to this with its first acknowledgement that FGC occurs in Thailand, but stated that those who practise khitan should not be punished unless they cause pain. It did state, however, that khitan should be subject to the consideration of a qualified medical professional and discouraged.

Conclusions

Thailand has no law criminalising FGC, and the Government has no public stance on the practice. There are also no directly relevant national policies relating to FGC and no legal rulings against its practice.

Despite this, there are a number of pieces of legislation in Thailand that contain general provisions that could apply to FGC cases, depending on the circumstances and the degree of harm inflicted. These include the following.

- **The Criminal Code:** General provisions of the Code may be applicable to FGC, depending on the circumstances and degree of injury inflicted. **Section 295** criminalises anyone who causes bodily or mental harm to another person by any means, and **Section 297** criminalises anyone who causes grievous bodily harm to another person, including the loss of that person's genital organs or reproductive ability. **Section 86** may also criminalise whoever assists or facilitates another person to commit FGC.
- **Child Protection Act:** This Act defines and prohibits any act that constitutes child abuse. FGC may be considered child abuse if it is performed on a girl under 18 years of age who is not married.
- **Victims of Domestic Violence Protection Act:** FGC may be considered a form of domestic violence under this Act, as it may cause physical or mental harm to a female member of a family (for example, a wife or daughter).
- **The Child Protection and Victims of Domestic Violence Protection Acts** provide protection for the reporter of an offense from any civil, criminal and administrative action arising from such a report, but do not prescribe a penalty for failing to report an offence.

Recommendations

Orchid Project recommends that:

1. as a first step, **a national survey** be conducted to confirm the extent of FGC in Thailand 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 Government of Thailand, in conjunction with the Central Islamic Council of Thailand, (*CICOT*) **set up a National Working Group** tasked with developing and implementing a programme of education and awareness-raising about the health and other harms of FGC in communities in which it is practised;
3. with regard to the medicalisation of FGC, the Government of Thailand's Ministry of Health **take note of a leaflet produced by the Malaysian Doctors for Women & Children (MDWC)** in 2023. This leaflet aims to provide accurate information about the practice of female cutting in Malaysia to healthcare professionals, with the ultimate objective of bringing about the cessation of the practice in Malaysia.³³ The MDWC's leaflet could be distributed widely among medical professionals in Thailand, to sensitise them to the harms FGC can cause;
4. the Ministry of Health **issue a warning** to all licensed medical practitioners (including general practitioners, midwives and nurses) that FGC must not be carried out in healthcare facilities;
5. while it is hoped that education and awareness-raising about the harms of FGC will lead to a reduction in the practice, the Government consider **introducing legislation that criminalises FGC**. This could take the form of a specific law criminalising FGC, which includes a clear definition of FGC that corresponds to the one given by the World Health Organization and clarifies any uncertainty around what types of cutting are classified as FGC; provides specific penalties for people who arrange, undertake or assist in the process of FGC on a minor girl or adult woman; criminalises the failure to report its occurrence or likely occurrence; makes it an offence for which parents and custodians can be held responsible; and gives authority to police and the judiciary to guarantee the protection of girls and women who are at risk of FGC.

Appendix I:

International and Regional Treaties

Thailand	Signed?	Ratified/ Acceded?	Reservations on Reporting? Yes/No
International			
Convention on the Elimination of All Forms of Discrimination against Women (1979)	Yes	Yes, 9 August 1985	Yes: 'The Government of the Kingdom of Thailand does not consider itself bound by the provision of Article 29 paragraph 1 of the CEDAW regarding the settlement of disputes between the States and Parties concerning the interpretation or application of the Convention by the International Court of Justice.'
Convention on the Rights of the Child (1989)	Yes	Yes, 12 February 1992	Yes: 'The Government of the Kingdom of Thailand does not consider itself bound by the provision of Article 22 of the CRC regarding the protection of refugee and asylum-seeking children.'
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: National Laws

Criminal Code of Thailand B.E. 2499 (1956) (as amended 2022)

Section 295

“ผู้ใดทำร้ายผู้อื่น จนเป็นเหตุให้เกิดอันตรายแก่กายหรือจิตใจของผู้อื่นนั้น ผู้นั้นกระทำความผิดฐานทำร้ายร่างกาย ต้องระวางโทษจำคุกไม่เกินสองปี หรือปรับไม่เกินสี่หมื่นบาท หรือทั้งจำทั้งปรับ”

Section 297

“ผู้ใดกระทำความผิดฐานทำร้ายร่างกาย จนเป็นเหตุให้ผู้ถูกกระทำร้ายรับอันตรายสาหัส ต้องระวางโทษจำคุกตั้งแต่หกเดือนถึงสิบปี และปรับตั้งแต่หนึ่งหมื่นบาทถึงสองแสนบาท อันตรายสาหัสนั้น คือ

- (๑) ตาบอด หูหนวก ลิ่นขาด หรือเสียขาประสาท
- (๒) เสียอวัยวะสืบพันธุ์ หรือความสามารถสืบพันธุ์
- (๓) เสียแขน ขา มือ เท้า นิ้วหรืออวัยวะอื่นใด
- (๔) หน้าที่เสียโฉมอย่างติดตัว
- (๕) แห้งลูก
- (๖) จิตพิการอย่างติดตัว
- (๗) ทูพพลภาพ หรือป่วยเจ็บเรื้อรังซึ่งอาจถึงตลอดชีวิต
- (๘) ทูพพลภาพ หรือป่วยเจ็บด้วยอาการทุกขเวทนาเกินกว่ายี่สิบวัน หรือจนประกอบกรณียกตามปกติไม่ได้เกินกว่ายี่สิบวัน”

Section 86

“ผู้ใดกระทำด้วยประการใด ๆ อันเป็นการช่วยเหลือ หรือให้ความสะดวกในการที่ผู้อื่นกระทำความผิดก่อนหรือขณะกระทำความผิด แม้ผู้กระทำความผิดจะมีได้รู้ถึงการช่วยเหลือหรือให้ความสะดวกนั้นก็ตาม ผู้นั้นเป็นผู้สนับสนุนการกระทำความผิด ต้องระวางโทษสองในสามส่วนของโทษที่กำหนดไว้สำหรับความผิดที่สนับสนุนนั้น”

Section 374

“ผู้ใดเห็นผู้อื่นตกอยู่ในภยันตรายแห่งชีวิตซึ่งตนอาจช่วยได้โดย ไม่ควรกลัวอันตรายแก่ตนเองหรือผู้อื่นแต่ไม่ช่วยตามความจำเป็น ต้องระวางโทษจำคุกไม่เกินหนึ่งเดือน หรือปรับไม่เกินหนึ่งหมื่นบาท หรือทั้งจำทั้งปรับ”

Child Protection Act B.E. 2546 (2003) (as amended)

Section 4

“**ทารุณกรรม**” หมายความว่า การกระทำหรือละเว้นการกระทำด้วยประการใด ๆ จนเป็นเหตุให้เด็กเสื่อมเสียเสรีภาพหรือเกิดอันตรายแก่ร่างกายหรือจิตใจ การกระทำผิดทางเพศต่อเด็ก การใช้เด็กให้กระทำการหรือประพฤติในลักษณะที่น่าจะเป็นอันตรายแก่ร่างกายหรือจิตใจหรือขัดต่อกฎหมายหรือศีลธรรมอันดี ทั้งนี้ ไม่ว่าเด็กจะยินยอมหรือไม่ก็ตาม

Section 26

“ภายใต้บังคับบทบัญญัติแห่งกฎหมายอื่น ไม่ว่าเด็กจะยินยอมหรือไม่ ห้ามมิให้ผู้ใดกระทำการ ดังต่อไปนี้

- (๑) กระทำหรือละเว้นการกระทำอันเป็นการทารุณกรรมต่อร่างกายหรือจิตใจของเด็ก
- (๒) จงใจหรือละเลยไม่ให้อาหารหรือสิ่งจำเป็นแก่การดำรงชีวิตหรือรักษาพยาบาลแก่เด็กที่อยู่ใน ความดูแลของตน จนน่าจะเกิดอันตรายแก่ร่างกายหรือจิตใจของเด็ก

[...]

ถ้าการกระทำความผิดตามวรรคหนึ่งมีโทษตามกฎหมายอื่นที่หนักกว่าก็ให้ลงโทษตามกฎหมายนั้น”

Section 78

“ผู้ใดฝ่าฝืนมาตรา ๒๖ ต้องระวางโทษจำคุกไม่เกินสามเดือน หรือปรับไม่เกินสามหมื่นบาท หรือทั้งจำทั้งปรับ”

Section 41

“ผู้ใดพบเห็นหรือประสบพฤติการณ์ที่น่าเชื่อว่าการกระทำทารุณกรรมต่อเด็กให้รีบแจ้งหรือรายงานต่อพนักงานเจ้าหน้าที่ พนักงานฝ่ายปกครองหรือตำรวจ หรือผู้มีหน้าที่คุ้มครองสวัสดิภาพเด็กตามมาตรา ๒๔”

Victims of Domestic Violence Protection Act B.E. 2550 (2007)

Section 3 (Definitions)

“**ความรุนแรงในครอบครัว**” หมายความว่า การกระทำใด ๆ โดยมีมุ่งประสงค์ให้เกิดอันตรายแก่ร่างกาย จิตใจ หรือสุขภาพ หรือกระทำโดยเจตนาในลักษณะที่น่าจะก่อให้เกิดอันตรายแก่ร่างกาย จิตใจ หรือสุขภาพของบุคคลในครอบครัว หรือบังคับหรือใช้อำนาจครอบงำผิดคลองธรรมให้บุคคลในครอบครัวต้องกระทำการ ไม่กระทำการ หรือยอมรับการกระทำอย่างหนึ่งอย่างใดโดยมิชอบแต่ไม่รวมถึงการกระทำโดยประมาท

Section 4

“ผู้ใดกระทำการอันเป็นความรุนแรงในครอบครัว ผู้นั้นกระทำความผิดฐานกระทำความรุนแรงในครอบครัว ต้องระวางโทษจำคุกไม่เกินหกเดือน หรือปรับไม่เกินหกพันบาท หรือทั้งจำทั้งปรับ ให้ความผิดตามวรรคหนึ่ง เป็นความผิดอันยอมความได้ แต่ไม่ลบล้างความผิดตามประมวลกฎหมายอาญาหรือกฎหมายอื่น หากการกระทำความผิดตามวรรคหนึ่งเป็นความผิดฐานทำร้ายร่างกายตามประมวลกฎหมายอาญา มาตรา ๒๕๕ ด้วย ให้ความผิดดังกล่าวเป็นความผิดอันยอมความได้”

Section 5

“ผู้ถูกกระทำด้วยความรุนแรงในครอบครัว หรือผู้ที่พบเห็นหรือทราบการกระทำด้วยความรุนแรงในครอบครัว มีหน้าที่แจ้งต่อพนักงานเจ้าหน้าที่ เพื่อดำเนินการตามพระราชบัญญัตินี้”

Appendix III:

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.³⁴

Appendix IV: 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.³⁵

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

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

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

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