

Comparative Legal Study of Female Genital Mutilation/Cutting (FGM/C): A Way Forward for Malaysia

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DOI: <https://dx.doi.org/10.47772/IJRISS.2025.909000730>

Received: 27 September 2025; Accepted: 03 October 2025; Published: 28 October 2025

ABSTRACT

Female Genital Mutilation/Cutting (FGM/C) is the non-medical cutting, removal, or injury of female genitalia, most often performed on girls between infancy and 14 years of age. Despite international condemnation and the recognition of FGM/C as a violation of human and children's rights under instruments such as CEDAW and the CRC, the practice remains widespread, affecting an estimated 230 million girls and women across Africa, the Middle East, and parts of Asia. This study examines the socio-cultural factors and effects, including traditions, religious beliefs, community pressures, and economic incentives, that sustain FGM/C. It also investigates how international legal standards are implemented and compares domestic legal frameworks in the United Kingdom and Malaysia. Adopting a qualitative, literature-based methodology, the research draws on secondary sources from academic and legal databases and employs a comparative approach. The findings reveal that while the United Kingdom has established a robust legal regime with specific statutes, extraterritorial provisions, and protective measures, Malaysia lacks a stand-alone law and relies instead on general child protection statutes and religious or cultural justifications. The study concludes that Malaysia must reconcile its international obligations with domestic religious and cultural realities by enacting a dedicated FGM law, setting medical and legal guidelines, mandating reporting duties, and involving religious authorities. Such a pragmatic approach would enhance protection of girls and women, reduce health risks, and align Malaysia more closely with international human rights standards.

Keywords: FGM/C, International law, Malaysian law, UK law, health, safety.

INTRODUCTION

Female genital mutilation cutting (FGM/C) is a technique to cut, remove and injure female external genitals without medical reasons.¹ FGM/C is commonly practised on young girls between infancy and 14 years of age, often without their consent or understanding of the effects of it. ² Society views FGM/C as a normal religious practice and belief. Some people believe that this practice will ensure and protect the purity and cleanliness of a girl. Approximately 230 million girls in over 30 countries, mainly from Africa, the Middle East, and Asia, are reported to undergo FGM/C. High prevalence rates are found in countries such as Ethiopia, Guinea, and Indonesia, where generations of women continue to be subjected to this practice. FGM/C brings multiple physical and mental health implications to those young children and women. FGM/C is also considered a violation of universal human rights by international organisations, where they alleged that the practice violates the principles of equality and discrimination based on sex. It also violates rights of the children and right to life.

¹ "What Is Female Genital Mutilation?" (UNICEF) <<https://www.unicef.org/protection/female-genital-mutilation>>

² World Health Organization: WHO, "Female Genital Mutilation" (January 31, 2025) <<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>>

The world Health Organization (WHO) classified FGM/C into four (4) types³: Clitoridectomy⁴, Excision⁵, Infibulation⁶ and other harmful procedures.⁷ Figure 1 below shows the three types of FGM/C .

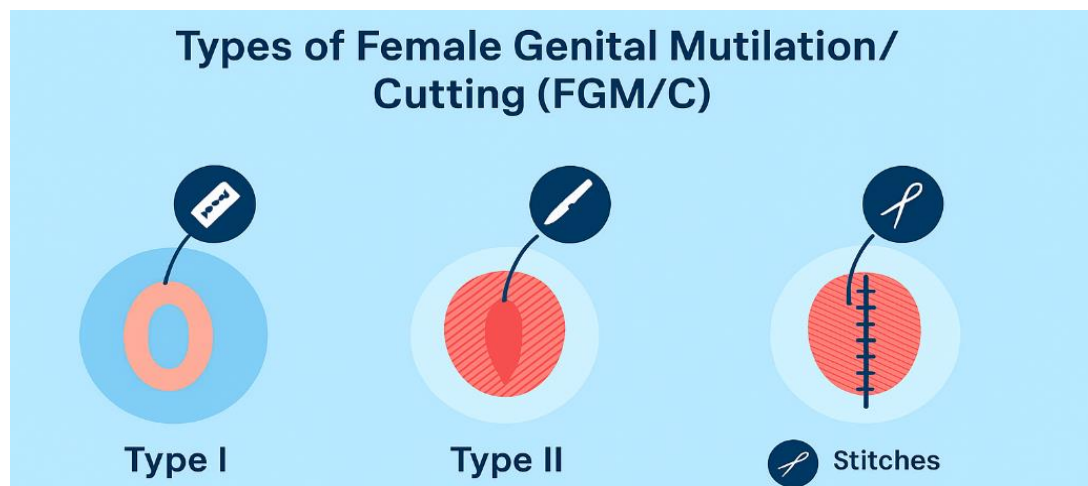


Figure 1: Partial or total remover of the clitoris and/or the clitoral hood (prepuce).

Female Genital Mutilation or Cutting (FGM/C) remains a global issue that threatens the health, rights, and dignity of women and girls. Despite international agreements such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), the practice continues to be practiced in many parts of the world. This is due to the practice's close ties with cultural traditions, community pressure, flaws in legal frameworks and enforcements, and differences in local domestic laws.

This situation reveals a significant gap between international standards and the harsh reality. While progress has been made globally, there is still limited clarity on how different cultural, legal, and social contexts shape the continuation or rejection of FGM/C. Understanding these variations is crucial for evaluating how far legal frameworks and social interventions can protect women and girl.

OBJECTIVE

This research has two main objectives. First, it examines the socio-cultural factors—including traditions, community pressures, and religious or cultural beliefs—that influence the continuation of FGM/C. Second, it analyses the legal frameworks in international law and in domestic contexts, particularly those of the United Kingdom and Malaysia.

METHODOLOGY

This study adopts a qualitative, literature-based research design and relies on secondary data from peer-reviewed journal articles, books, official reports, and legal documents. It also adopts a comparative approach, examining the modus operandi of FGM/C in Kenya and Ethiopia, as well as comparing the legal frameworks addressing it at the international level and in countries such as the United Kingdom and Malaysia.

Sources were collected primarily from academic databases including PubMed, NIH, Google Scholar and legal databases as well as reports from international organisations such as the United Nations and World Health Organization. The selection focused on publications that addressed legal, religious, cultural, social, and health perspectives on FGM/C.

³ Ibid.

⁴ Partial or total remover of the clitoris and/or the clitoral hood (prepuce).

⁵ Partial or total remover of the clitoris along with labia minora, with or without removal of the labia majora.

⁶ Narrowing of the vaginal opening through the creation of a seal, by using cutting and repositioning of the labia minora or labia majora, on occasion removal of the clitoris.

⁷ Pricking, Piercing, Incising, Scraping female genitalia for non-medical reason

The data were analysed thematically to identify recurring patterns in causes, cultural practices, health outcomes, and legal responses. Since this study relies entirely on secondary sources, no primary data collection or formal ethical approval was required. Nevertheless, attention was given to ensuring accurate representation and cultural sensitivity in presenting the findings.

Global Prevalence of FGM/C

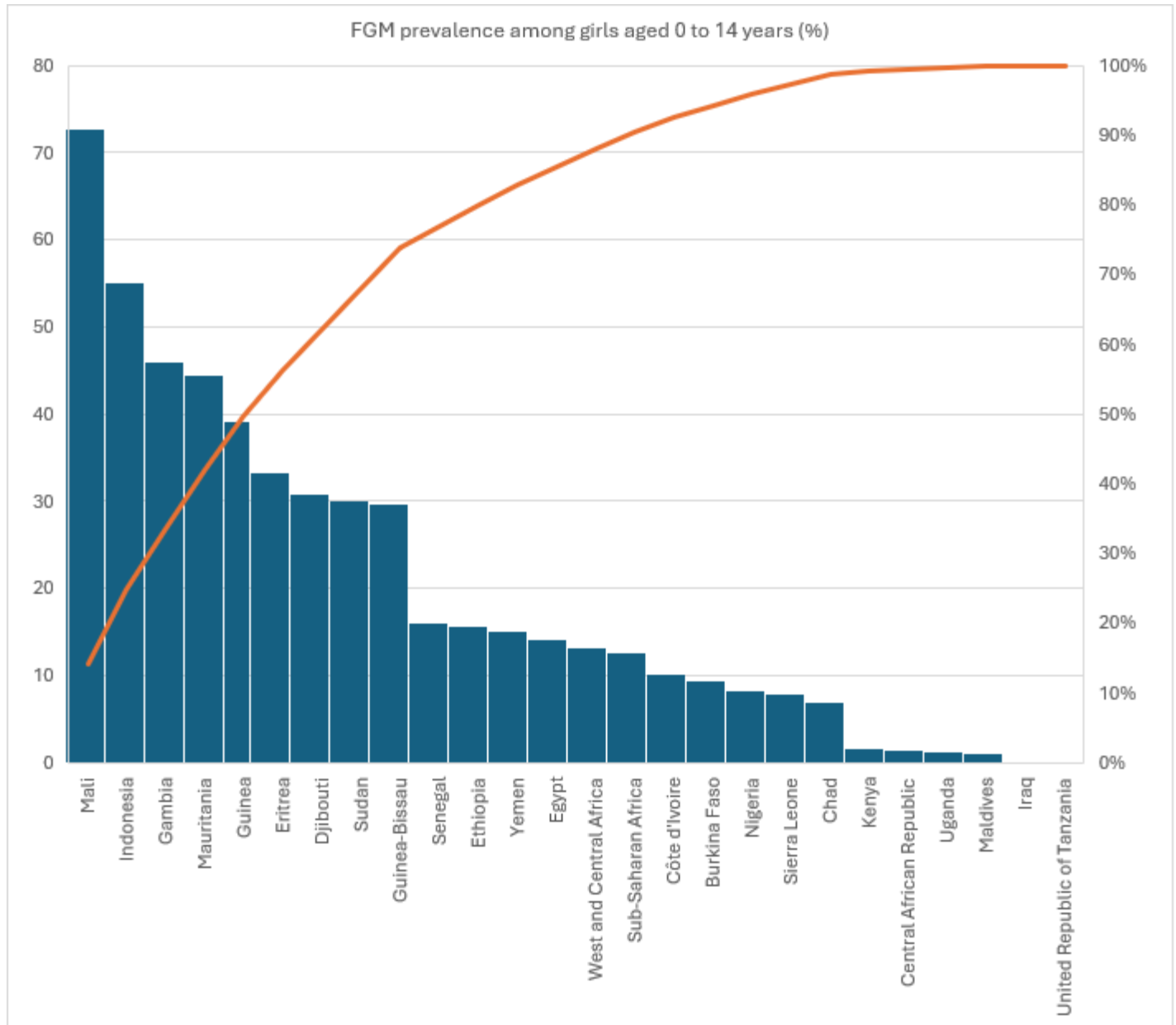


Figure 2: Statistics of the FGM prevalence among girls aged 0 to 14 years among girls aged 0 to 14 years (Source: UNICEF) ⁸

According to the Figure 2 above, the highest prevalence of female genital mutilation (FGM) among girls aged 0–14 was reported in Mali at 73%. In contrast, the Maldives, Iran, the United Republic of Tanzania, and the Central African Republic recorded the lowest prevalence with only 1% of women and girls affected. However, these countries with the exception of Mali were not incorporated into the present analysis nor were they explicitly designated for exclusion. Mali was included in the analysis owing to its substantially higher prevalence rate.⁹ Figure 2 below shows the statistics of the girls and women opposing the continuation of FGM from 2014 to 2022.

⁸ “Female Genital Mutilation (FGM) Statistics - UNICEF Data” (UNICEF DATA, October 11, 2019) <<https://data.unicef.org/topic/child-protection/female-genital-mutilation/>>

⁹ Ibid

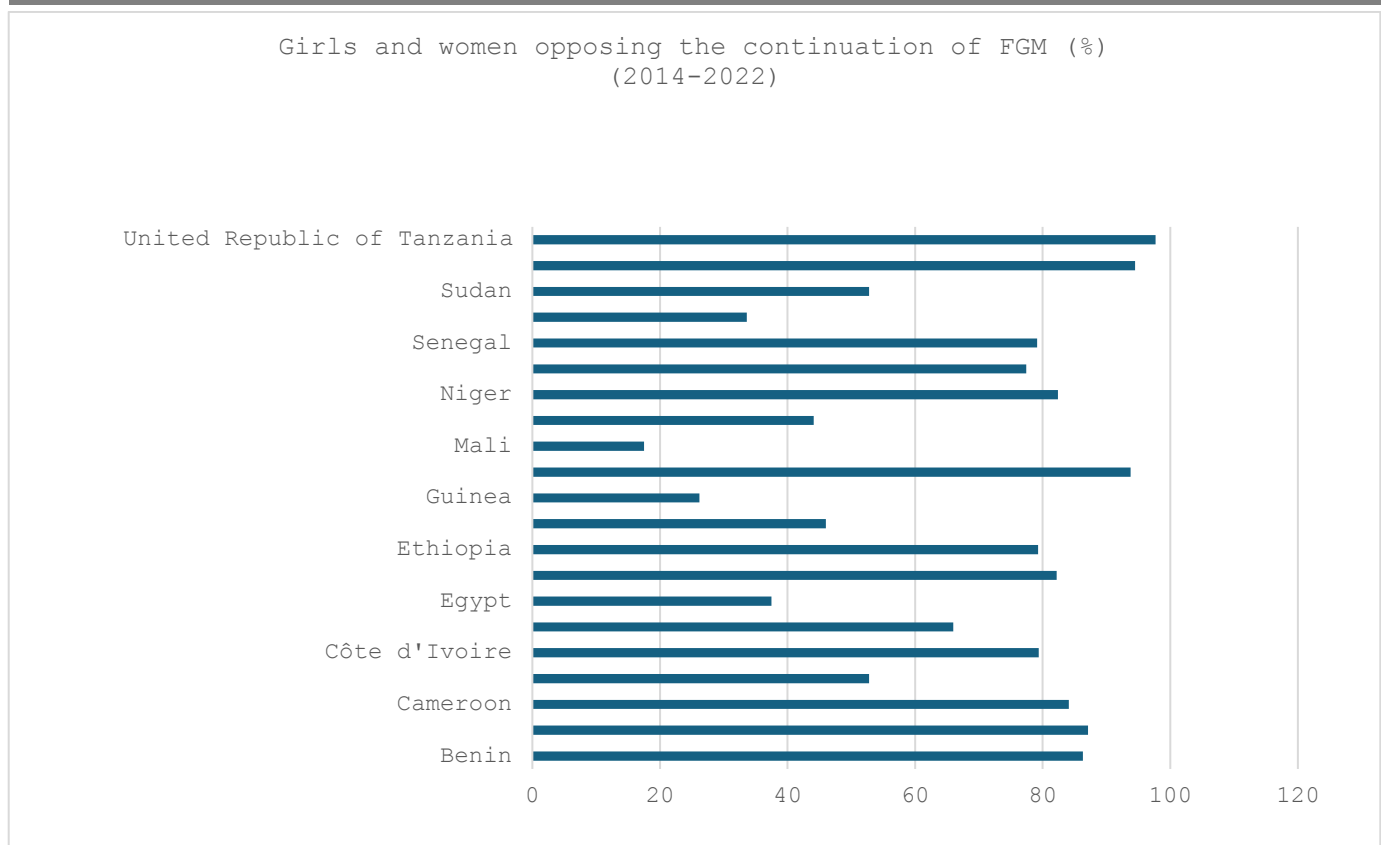


Figure 2: Statistics of the girls and women opposing the continuation of FGM from 2014 to 2022 (Source: UNICEF)¹⁰

Between 2014 and 2022, the highest proportion of girls and women opposing the continuation of female genital mutilation (FGM) was recorded in the United Republic of Tanzania (98%). However, Tanzania was not included in the specific analysis. Accordingly, Kenya, where 94% of women expressed opposition, is reported as having the highest rate of opposition among the countries included in the analysis. In Sierra Leone, West Africa, 34% of women opposed the practice in 2019. However, these countries were not incorporated into the specific analysis and were not explicitly marked for exclusion. Conversely, Mali was included with 18% of women recorded as opposing FGM.¹¹

Causes of FGM/C

Female Genital Mutilation or Cutting (FGM/C) has been practised for a variety of reasons. It is often attributed to traditional practices as well as cultural, social, and religious beliefs. Particularly in some Muslim-majority countries in Africa and the Middle East. In many communities, FGM/C is believed to ensure a girl's purity and to control her sexuality.¹² The procedure is frequently carried out with the consent or encouragement of parents as it is regarded as a tradition passed down from generation to generation. Families who fail to perform it may experience social pressure, feelings of exclusion, or fear of social sanction.

In some research, girls are considered women only once they have been circumcised.¹³ Misconceptions also occur, including beliefs that an uncircumcised girl will bring bad luck, unclean spirits, or endanger her family and future husband. Others believe that uncircumcised women have a stronger sexual desire than men.¹⁴

¹⁰ UNICEF (n 8)

¹¹ UNICEF (n 8)

¹² "Why Does FGM/C Happen?" (*Orchid Project*, November 11, 2018) <<https://www.orchidproject.org/about-fgc/why-does-fgc-happen/>>

¹³ "What Is Female Genital Mutilation (FGM)?" (*Plan International*, July 24, 2024) <<https://plan-international.org/learn/what-female-genital-mutilation-fgm>>

¹⁴ World Health Organization: WHO, "Female Genital Mutilation" *World Health Organization: WHO* (January 31, 2025) <<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>>

Female Genital Mutilation (FGM/C) is also performed to prepare a girl for marriage.¹⁵ In certain communities, it is also thought to protect women from disease. However, many parents are aware of the severe health risks and trauma their daughters face as a result of being cut. Despite this awareness, the fear of social sanction often compels parents to continue the practice in order to preserve cultural traditions, even exposing their daughters to a high risk of health conditions.

However, some communities believe that performing FGM/C helps control a girl's sexual desire, preserve her purity and virginity before marriage.¹⁶ It would also enhance family's honour as an uncut girl may bring shame and gossip to her family.¹⁷ In a culture where a family's honour plays a huge role in deciding the bride price or dowry, girls who underwent FGM/C may ask for a higher price, which in turn provides financial and economic stability for her family.¹⁸

Effects of FGM/C

FGM/C could induce many effects, particularly FGM, which was estimated to affect 100 to 140 million women and girls across the globe.¹⁹ FGM is widely known to cause serious health complications.²⁰ In Malaysia, FGC is more common, with it being seen as a cultural and Islamic religious practice. Several health effects that stem from the practice of FGM and FGC include bleeding, infections, and several reproductive problems such as infertility and birth complications.²¹

Apart from that, FGM and FGC may also cause mental and psychological harm.²² These harms can span from immediate to long-term complications. A survey conducted revealed that these mental health problems associated with FGM/C could happen in the form of Post Traumatic Stress Disorder (PTSD), depression, and anxiety.²³ Women and girls who experienced FGM/C were reported to experience negative emotions regarding the cutting and great displeasure, irritability, pain, fear, and it worsens during gynecological examinations and childbirth.²⁴

On the contrary, some scholars and researchers believe that the health risks posed by FGM/C is not linked to the practice itself, but rather depends on the skills and instruments used by the practitioners. As an example, a rusted knife used by traditional practitioners may potentially risk an infection.²⁵ In this regard, a safe and clear guideline is needed to ensure the safety and hygiene of this practice, especially due to the fact that FGM and FGC are generally practiced by traditional practitioners.²⁶

Comparison of FGM/C in Kenya and Ethiopia

Kenya

Kenya is home to over 40 ethnic groups. The Somali community who represents 5.8% of the national population, remains the only group that actively practice FGM/C. Most Kenyans are 85.5% are Christians.²⁷ On the other

¹⁵ Ibid

¹⁶ "Female Genital Mutilation or Cutting" (*OASH | Office on Women's Health*) <<https://womenshealth.gov/a-z-topics/female-genital-cutting>>

¹⁷ Ibid

¹⁸ Chesang D, "Exploring the Persistence of FGM in West Pokot County, Kenya" (March 2025) <<https://www.kcl.ac.uk/giwl/assets/exploring-the-persistence-of-fgm-in-west-pokot-county-kenya.pdf>>

¹⁹ WHA, 'Female Genitalia Mutilation' (24 May 2008) WHA61.16

²⁰ Geofani Lingga Meryadinata and Shihaf Ismi Salman Najib, 'The Female Genital Mutilation Regulations in Indonesia: The International Law, Human Rights, and Islamic Law Perspectives' (2025) 6 *Uti Possidetis: Journal of International Law* 109.

²¹ Abdul Rashid, Yufu Iguchi and Siti Nur Afiqah, 'Female Genital Cutting in Asia: The Case of Malaysia', in K. Nakamura (ed), *Female Genital Mutilation/Cutting* (Springer 2023)

²² Meryadinata, (n 2) 122.

²³ Esho Tammamy and Kumar Manasi, 'Mental and sexual health outcomes associated with FGM/C in Africa: a systematic narrative synthesis (February 2023) 56 *EClinicalMedicine* 101813.

²⁴ Ibid.

²⁵ Meryadinata, (n 2) 122.

²⁶ Moses Osamudiamen Izevbizua and Kingsley Patrick Omoruyi, 'The Role of Government in Abolishing Female Genital Mutilation in Nigeria: A Panacea for Gender-Based Violence' (2024) 4 *Niger Delta Journal of Gender, Peace & Conflict Studies* 227, 237.

²⁷ "Kenya" (*The World Factbook*) <<https://www.cia.gov/the-world-factbook/about/archives/2021/countries/kenya/>>

hand, other Somalis are traditional pastoralists and Muslims who follow the Shafi'i school.²⁸ The percentage distribution of Somali women aged 15 to 49 years who have undergone FGM by type is as follows;²⁹

- Type I: 1.4%
- Type II: 64.6%
- Type III (Infibulation): 32.3%

FGM/C is generally practised for a variety of reasons across Africa. In some communities, it is believed that girls must be cut to control their libido. In others, there is a perception that intact girls are dirty, unattractive, could kill the husband during intercourse or cause the death of a first-born child at birth. FGM/C also demonstrates a woman's ability to endure the pain of childbirth. It is also widely regarded as a rite of passage into adulthood.³⁰

Among Somalis, the most common reason for continuing the practice is to provide proof of a girl's virginity. Traditionally, girls have been forced into marriage at around 14 years of age by their fathers since Somali men view FGM is evidence of virginity. There are also economic factors that drive poor families to uphold the practice such as the bride-price. Which may involve the exchange of livestock, money or other goods. All of them are tied to patriarchal customs. If a girl is not circumcised, her father may not receive the full bride-price. For poor families this payment is essential not only for daily survival but also to finance the bride-price required for their son's marriages.³¹

Other than that, peer pressure also plays a significant role. According to the Kenya Demographic and Health Survey 2014, 82.7% of women and 87.0% of men aged 15–49 reported that FGM/C is required by the community.³²

Ethiopia

The 'Yellow Bull' community is an agro-pastoralist community living in a peripheral district of Ethiopia.³³ In the past decade, their preferred form of Female Genital Cutting (FGC) has shifted from excision (Type II) to clitoridectomy (Type I). The community relies mainly on flood-retreat farming and livestock herding for their livelihood.³⁴ Socially, they are organized into two territorial sections, each further divided into two regional groups with its own chief and age organization. Elders in these age organizations hold significant authority particularly in distributing floodplain land, arranging marriages and mediating conflicts.

In their community's language, FGC is described as "tying knees".³⁵ The term refers to the practice of binding a woman's legs after the procedure until the wounds heal. Women usually marry at around 20 years of age where the matrimonial ceremony would last for five days and the FGC takes place on the final day. On the morning of the procedure, women who have previously married into the bride's lineage gather to participate. Female circumcisers, who are believed to have special skills will perform the cutting. Traditionally, the entire external genitalia were removed and other women present would ensure this tradition was carried out. In 2010, the practice has shifted to clitoridectomy.

After the operation, the bride is wrapped in a white sheet and laid on a cowhide. The groom then arrives wearing ornaments linked with warrior status. The bride's brothers demand that he provide cows as bride wealth,

²⁸ *Female Genital Mutilation/Cutting* (Springer Nature Singapore 2023) <<https://objects.scraper.bibcitation.com/user-pdfs/2025-08-24/b0706cac-8056-46a6-ab00-948bf5bc81cc.pdf>>

²⁹ *ibid*

³⁰ *Female Genital Mutilation* (n 28)

³¹ *Female Genital Mutilation* (n 28)

³² "Kenya Demographic and Health Survey 2014 [FR308]"

³³ "Yellow Bull" is a made-up name that author use to refer to an ethnic group in Ethiopia. It uses to protect the privacy and safety of the people that the author got the information from.

³⁴ *Female Genital Mutilation/Cutting* (Springer Nature Singapore 2023) <<https://objects.scraper.bibcitation.com/user-pdfs/2025-08-24/b0706cac-8056-46a6-ab00-948bf5bc81cc.pdf>>

³⁵ *Ibid.*

symbolizing that the bride has been “bought.” Once the ritual is done, the groom’s friends escort the bride to his home. The bride will drink a ritual liquid known as “poison,” marking her acceptance into the groom’s family.³⁶ Her knees are tied together and will be healed by exposure to smoke from burning wood.

After several months, they are granted a plot of floodplain land by the elders as a marking their full integration into the community. This is where they have been established as an independent household.

In both Kenya and Ethiopia, FGM/C continues as a deeply rooted cultural practice. Among Kenyan Somalis, the practice is strongly linked to religion, virginity, early marriage, and economic survival through the bride-price system. In contrast, among Ethiopia’s ‘Yellow Bull’ community, FGC is embedded in elaborate marriage rituals and social structures. While both cases reflect patriarchal control over women’s bodies and reproduction, Kenya shows a stronger emphasis on proof of virginity and economic exchange, whereas Ethiopia highlights ritualized cultural identity and community belonging.

Legal Framework of FGM/C

International Law

On 24 May 2008, the World Health Assembly passed resolution WHA61.16, a resolution addressing the issue of FGM.³⁷ The resolution recognizes the practice of FGM/C as a harmful non-medical traditional practice and affirms passed resolutions and treaties such as CEDAW to protect the health and rights of women and girls.³⁸ This resolution can be recognized as stepping stone in the international legal community’s effort in the discussion of FGM, in order to protect every fundamental right promised to billions of women and girls across the globe.

CEDAW 1979 is one of the major international legal instruments used to raise the awareness on the issue of FGM/C. Under Article 1, 2, and 5 of the said convention, the practice of FGM/C breaches the said article as it impairs women and girls their fundamental rights and perpetuates their subordinate status in society as the practice is closely linked with cultural and religious beliefs in many communities and societies.³⁹ Therefore, FGM/C can be seen as a practice that impeaches the right to be free from discrimination for women.⁴⁰

Article 5 of CEDAW also mentions the modification of social and cultural patterns.⁴¹ It explains that states must work to change cultural norms and stereotypes that justify or perpetuate FGM and discrimination against women.

Moving on, the practice of FGM also breaches the right to life and physical integrity and freedom of violence as protected under Article 3 of the UDHR where every person is protected their right and liberty.⁴² This is due to the fact that most women and girls underwent FGM or FGC when they are an infant, in some cases, younger than six months old, and were unable to give proper consent.⁴³

This point of information directly links to the provisions set out by the CRC 1989.⁴⁴ FGM violates the children’s rights and best interest as they have no say in determining whether they are willing to give consent to the practice as they are too young. This is laid down under Article 3 of the CRC where FGM/C harms children’s development and well-being and contravenes the principle that the child’s best interest must guide all actions. It must also be noted that FGM mutilates healthy body part of girls and women, clearly breaching the children’s right to dignity and physical integrity.

³⁶ Ibid.

³⁷ WHA (n 1).

³⁸ Ibid.

³⁹ Rashid (n 3) 113.

⁴⁰ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW)

⁴¹ Ibid.

⁴² Universal Declaration of Human Rights (adopted December 1948) UNGA Res217A(III) (UDHR) art 3.

⁴³ Rashid (n 3) 117.

⁴⁴ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) UNGA Res44/25 (CRC).

Article 2 of the CRC protects the of the children to be free from discrimination.⁴⁵ FGM/C discriminates women and girls as it violates their right to equal treatment and negatively affecting their survival and development as FGM/C can cause complications such as reproductive problems and mental health issues.⁴⁶

From another point of view, FGM/C also breaches the right to health of women and girls under the International Covenant on Economic, Social and Cultural Rights (ICESCR) under Article 12.⁴⁷ FGM/C violates the right to the highest attainable standard of physical and mental health.⁴⁸ FGM are also categorized as an invasive in nature, harmful procedure with no medical need.⁴⁹

United Kingdom

On the domestic level, some countries have legislated their own laws on FGM/C. One of the most prevalent countries is the United Kingdom (UK). The practice of FGM/C has been declared a specific crime or offence in the UK since 1985 by the Prohibition of Female Circumcision Act 1985.⁵⁰ This legislation was later replaced by the Female Genital Mutilation Act 2003 which modernized the definition of the offence and the punishments.⁵¹ It was later amended in 2015 by the Serious Crime Act 2015, expanding the extra-territorial reach of the offence which would criminalize the practice abroad to both UK nationals and permanent residents and heavier punishments for parents for failing to protect their children from the risk of FGM.⁵²

The case of *R v Amina Noor* is the first successful UK prosecution for FGM/C and the landmark case in the UK.⁵³ The accused was convicted for allegedly assisting the mutilation of a 3-years-old girl on a trip to Kenya in 2006. She was in violation of the Female Genital Mutilation Act 2003 under Section 3.⁵⁴ The accused took the child to a house described as a “clinic” where the child underwent Type 1 FGM. The accused protested before finally agreeing to assist and escort the girl to keep her calm while she endures severe pain and injury while being held down.

The court found the accused guilty and found her to fail in her parental duty in order to protect the child from the abhorrent crime that the child experienced. The accused was sentenced to seven years in prison and sent a strong message that the UK will not only prosecute the ones who perpetrate FGM, but also the ones who assist it.

Malaysia

Regarded as a cultural and religious practice in Malaysia, there is no specific civil law that prohibits the practice of FGM or FGC.⁵⁵ However, there are a few legal discussions on these two practices. First is the consent given for these practices. Since FGM and FGC are conducted upon children who have not reached the age of majority, their parents or their legal guardians are the ones who must provide consent on behalf of the children. Under Section 2(a) of the Child Act 2001, a child is defined as a person who is under the age of eighteen.⁵⁶ Meanwhile, Section 2 of the Age of Majority Act 1971 stated that every person will reach the age of majority at the age of majority.⁵⁷

⁴⁵ CRC (n 16).

⁴⁶ Rashid (n 3) 122.

⁴⁷ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) UNGA Res2200A(XXI) (ICESCR) art 12.

⁴⁸ Meryadinata (n 2) 146.

⁴⁹ Elliot Klein and others, ‘Female Genital Mutilation: Health Consequences and Complications—A Short Literature Review’ (10 July 2018) 2018 *Obstetrics and Gynecology International* 1, 1.

⁵⁰ Prohibition of Female Circumcision Act 1985.

⁵¹ Female Genital Mutilation Act 2003.

⁵² Serious Crime Act 2015.

⁵³ *R v Noor* [2024] EWCA Crim 714 (CA).

⁵⁴ Female Genital Mutilation Act (n 22).

⁵⁵ Nursyafiq Izzati Azmi Rais and others, ‘Female Circumcision in Malaysia: A Way Forward for Safe Practice’ (2024) 6 *Asian Journal of Law and Governance* 60, 65.

⁵⁶ Child Act 2001 s 2(a).

⁵⁷ Age of Majority Act 2001 s 2.

Nowadays, medical doctors in Malaysia also widely and regularly practice FGM.⁵⁸ However, the majority of them received no proper training to practice the procedure.⁵⁹ As a traditional practice, FGM and FGC are often conducted by *Mak Bidans* who work as a village midwife.⁶⁰ Section 2 of the Midwife Act 1966 defined midwife as a professional who in returns for fees, provide services, particularly in the event of birth and Section 5(d) of the same act provided that the Midwives' Board shall hold authority to monitor and evaluate performances of the midwives or *Mak Bidans*.⁶¹ In the event of a misconduct, the Midwives' Board is obliged by the law to address the matter the same way as if the misconduct was done by medical doctors.⁶²

Comparative Analysis of the Legal Frameworks

There are a few key differences between Malaysian and UK laws in regards of FGM and FGC. In the UK, the FGM and FGC have their own specific legislation; namely the Female Genital Mutilation Act 2003. This act provides clear definitions of the practice and also the punishments. Unlike the UK, there is no direct legislation that criminalizes the practice of FGM or FGC in Malaysia. Instead, it is viewed as a cultural and common religious practice. The legal definitions of the practice rely solely on broad legislations such as the Child Act, Penal Code and Fatwas.

Amended by the Serious Crime Act 2015, the criminality of the offence also extends to extra-territorial, meaning even if the practice was done abroad to UK nationals and permanent residents, it would still be punished in the UK. However, in Malaysia, there are no explicit extraterritorial provisions that criminalizes the practice committed abroad.

By virtue of the Serious Crime Act 2015, some protective measures are outlined for the victims of the practice. The victims would remain under life-time anonymity under Section 71 of the said legislation. This is similar to the anonymity granted for the victims of sexual violence victims in the UK. There is also a preventive measure which is the Female Genitalia Mutilation Protection Order (FGMPO) where the courts may grant protective orders for victims or girls that are exposed to the risk of the practice of FGM or FGC under Section 73 of the legislation. The provision also criminalizes the failure to report the practice if committed. On the contrary, the practice relies solely on family, cultural, and religious context in Malaysia. There is also a lack of formal reporting duty, leading to data deficiency.

There are zero tolerance of FGM and FGC practice in the UK. The practice is widely and legally classified as pure violence, child abuse, and a violation of human and children's rights. In Malaysia, the practice is more tolerated and normalized as it is closely tied to religious and cultural justifications. Medically, it is justified by the reason of the type of FGM commonly practiced, which was classified as Type IV by the WHO.

Having compared both domestic approaches of Malaysia and the UK, it is essential to situate both within the wider framework of international, specifically the international human rights and children's rights law under CEDAW, CRC, ICESCR, UDHR, UNGA Resolutions and WHO guidelines;

1. While the UK's legal framework reflects its obligations under CEDAW and CRC, Malaysia's reliance on general child protection laws reveals significant gaps in compliance with international standards.
2. The UK shows strong compliances with international laws and norms by having specific laws that criminalizes the practice of FGM, extraterritorial effects of the crime committed abroad, preventive measure by offering protection orders and reporting duties of the practice. This can be regarded as an active alignment with CEDAW and CRC obligations.
3. Malaysia on the other hand shows weak compliance with the international standards and norms. There are no specific statutes and no obligation of reporting duties. This puts Malaysia in tension with CEDAW and CRC since international law clearly frames FGM as a clear breach of human rights.

⁵⁸ Rashid (n 3) 116.

⁵⁹ Ibid.

⁶⁰ Rashid (n 3) 109.

⁶¹ Midwives Act 1966.

⁶² Ibid.

A Way Forward for Malaysia

By examining Malaysia's, the United Kingdom's, and international laws, it becomes apparent that Malaysia's current system lacks both specificity and protective measures required to effectively safeguard against the harmful effects of FGM. This study acknowledges and respects the cultural and religious justifications for the practice of FGM in Malaysia. However, strong legal and medical frameworks are vital to ensure that this practice continues to be practiced safely in Malaysia.

Compared to the UK's legal framework, Malaysia should have its own stand-alone statute for FGM, providing clear definitions, guidelines for procedures, penalties for failure to comply with the law, and protective measures for children. This is important to ensure legal clarity and certainty. It can also encourage accountability for the practitioners as well as helping to shift public perception over time from viewing the practice as purely traditional to modern and medical. Clear guidelines for FGM procedures abroad are also important to prevent unwanted harm and ensures the safety of the children.

In Malaysia, FGM are commonly practiced by *Mak Bidans* and medical doctors whom the majority of them received no professional medical training for the procedures. Proper training and guidelines for FGM is as important as any other medical procedures as it involves sensitive body parts of a young girl and any mistakes could lead to grave consequences such as reproductive and mental health problems. Mandatory reporting duty is also essential. Doctors, nurses, *Mak Bidans*, and parents should have the reporting duty for the practice to ensure that data can be collected and procedures documented to prevent data deficiency of the practice.

CONCLUSION

In conclusion, this study acknowledges that Malaysia faces the unique challenge of reconciling international human and children's rights obligations with domestic religious and cultural realities while maintaining positive public perception in the process. While the UK showed that comprehensive criminalization, paired with preventive measures proves to be effective, a direct adoption of such model into Malaysia may induce social repercussions and non-compliance. Instead, this study suggests that Malaysia pursue a pragmatic approach by introducing a stand-alone statute that defines and regulates FGM, prohibits its most harmful forms, establishes clear medical and legal frameworks, and engages religious authorities in shaping its implementation. In this regard, a safe and clear guideline is needed to ensure the safety and hygiene of this practice. Such approach would not only demonstrate Malaysia's progressive alignment with ratified international laws such as CRC and CEDAW, but also ensure that Malaysia can move towards its goal of institutional and legal reforms – whether or not such reforms ever materialise.

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UK Legislation

Prohibition of Female Circumcision Act 1985

Female Genital Mutilation Act 2003

Serious Crime Act 2015

Malaysian Legislations

Age of Majority Act 2001, s 2

Child Act 2001, s 2(a)

Midwives Act 1966

International Legislations

Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW)

Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217A (III) art 3

Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) UNGA Res 44/25 (CRC)

International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) UNGA Res 2200A (XXI) art 12

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