



**GAMCOTRAP**



**Protect The Girl-Child**

# Universal Periodic Review

## The Gambia

**Joint Submission by Equality Now and GAMCOTRAP to the Human Rights Council at the 48th Session (4th cycle, January 2025) of the Universal Periodic Review.**

16 July 2024

### **Introduction**

1. **Equality Now** is an international human rights organization with ECOSOC status that has been working to protect and promote the rights of all women and girls worldwide since 1992, including through our network of individuals and organizations in every region. Ending sexual violence, sexual exploitation, harmful practices, and legal equality are the main areas of Equality Now's work.
2. The **Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP)** was formed in 1984 as an apolitical, non-governmental, non-profit organization. GAMCOTRAP has been one of the organizations leading the effort to end harmful practices in the Gambia, with a mission to promote the health, well-being, and rights of women and children by advocating for the elimination of harmful traditional practices.
3. Equality Now<sup>i</sup> and GAMCOTRAP<sup>ii</sup> make this joint submission to the Universal Periodic Review on the human rights violations arising from child marriage and female genital mutilation (FGM) and the steps needed to end these harmful practices against women and girls in The Gambia.

### **The Gambia and the issue of child marriage and FGM under previous UPR cycles**

4. During its second cycle review at the UPR on 28 October 2014, The Gambia received several recommendations regarding FGM and child marriage. Nine recommendations

urged the country to enact a comprehensive law to prohibit FGM, which was noted by the government of Gambia. Three recommendations urged the country to adopt and enforce effective legislation to ban FGM and penalize those responsible, which was accepted. Additionally, three recommendations advised enhancing initiatives to stop FGM, early marriage, and similar harmful practices, which were also accepted.<sup>iii</sup>

5. During its third cycle review at the UPR on 5 November 2019, The Gambia received multiple recommendations concerning FGM and child marriage. India proposed policy and legislative reforms to address the violation of children's rights. Recommendations from Zambia and Honduras urged amendments to the Children's Act of 2005 to encompass all aspects of the Convention on the Rights of the Child, including child marriage, FGM, and child labor. The Solomon Islands recommended implementing various acts and laws to enhance community engagement and raise awareness to safeguard the well-being of women and children. Finally, Tunisia emphasized the necessity of comprehensive efforts to protect the rights of the child in accordance with their best interests.<sup>iv</sup> Commendably, the government of The Gambia accepted all these recommendations.

### **Issue - FGM**

6. The Government of The Gambia has taken significant steps to combat female genital mutilation (FGM) through a series of initiatives. Firstly, the amendment of the Women's Act in 2015 criminalized FGM,<sup>v</sup> providing a legal framework to prosecute perpetrators and protect women and girls from the practice. This amendment implemented several recommendations made to The Gambia in the second cycle review of the UPR. Secondly, a National Policy for the Elimination of female genital mutilation in The Gambia 2022-2026<sup>vi</sup> has been adopted by the government, uniting government agencies, civil society organizations, and stakeholders in coordinated efforts to eliminate FGM. Thirdly, public awareness campaigns have been launched to educate communities on the detrimental effects of FGM and promote public declarations on dropping the knife involving various societal leaders and groups. Moreover, efforts were made to include data collection and monitoring to gauge progress, inform policymaking, and collaborate with international organizations and other governments to share resources and best practices in the global fight against FGM.

### **High prevalence of FGM**

7. The prevalence of FGM, however, persists in The Gambia, highlighting the ongoing need for intensified action to safeguard the rights and well-being of women and girls. As reported in the latest Demographic and Health Survey (DHS), 73% of women and girls aged 15-49 years in The Gambia are affected by FGM. This practice primarily targets girls under 18, with a significant portion (65%) undergoing FGM before age 5. While higher maternal education correlates with lower FGM rates among daughters, the overall

prevalence has seen minimal reduction, decreasing only from 75% in 2013 to 73% in 2019. The practice remains widespread across all regions, with the lowest prevalence still alarmingly high at 42% in Kerewan.<sup>vii</sup> Additionally, traditional circumcisers are responsible for the vast majority of FGM cases, highlighting a critical public health and human rights issue that requires urgent attention.

### **Need for sustained support for the Women's (Amendment) Act, 2015**

8. The Government of The Gambia took a critical step in combating female genital mutilation (FGM) with the enactment of the Women's (Amendment) Act of 2015, aimed at protecting women and girls from this harmful practice. This legislation provides a vital framework for prosecuting offenders and safeguarding the rights of women and girls.
9. On 15 July 2024, The Gambia's National Assembly members rejected a bill aimed at repealing the Women's (Amendment) Act of 2015, following nearly a year of contentious debate. While this decision averts the immediate threat of repeal, it does not guarantee that the law will not face further attacks in the future<sup>viii</sup>, as the law has come under the threat of being repealed in the recent past, as highlighted below:
  - In February 2024, the National Assembly Member for Foni Kansala, Honourable Almameh Gibba, introduced a Private Members Bill ("Repeal Bill"), seeking to functionally repeal Sections 32(A) and (B) of the Women's (Amendment) Act of 2015 which criminalizes FGM in the country. The proponents of this Repeal Bill argued that legal restrictions on religious or cultural practices clash with the wishes and rights of local communities in The Gambia to follow their beliefs. They asserted that permitting FGM maintains religious purity and protects cultural traditions and values.
  - On 8th July 2024, the Joint Committee on Gender and Health of the National Assembly submitted its report on the proposed Women's Amendment Bill 2024. The Committee's report underlined that FGM violates the right to gender equality and infringes on the health rights of women and girls in The Gambia. Key recommendations of the Committee's report included: (i) maintaining the Women's (Amendment) Act, 2015; (ii) ensuring effective implementation of the Women's (Amendment) Act, 2015 by the government; (iii) providing legal support and protection to girls and women who are at risk or have undergone FGM. This includes access to shelters, counseling, and other support services; and (iv) prohibiting any attempts to medicalize FGM.<sup>ix</sup> The Joint Committee's report was adopted by the National Assembly, with a majority of 35 Members voting in favor of adopting the report.
10. The attempt to repeal the Women's (Amendment) Act, 2015, despite its crucial protections and the widespread public support from certain sections of the community, including some

religious scholars and healthcare practitioners, highlights the ongoing threat to women's and girls' rights in The Gambia. Many anti-FGM activists and political leaders who spoke publicly about the need to uphold the anti-FGM law also faced harassment and threats of violence. The repeal attempt demonstrates the need for more programs focused on community education and awareness of FGM, as well as the need for effective enforcement of the anti-FGM law, considering that the law is yet to be fully implemented, as evidenced by the few prosecutions to date. Repealing this Act would have undermined its potential to protect women and girls fully, risking a setback in efforts to combat FGM and uphold human rights for women and girls. The lack of effective implementation will be highlighted in the paragraphs below.

### **Failure to Effectively implement existing legislation on FGM**

11. Despite the enactment of the Women's (Amendment) Act of 2015, which criminalizes FGM, The Gambia faces a significant issue with the low prosecution rate of FGM cases. The legislation provides a crucial legal framework for protecting women and girls, yet enforcement remains weak. Many cases of FGM go unreported, and even when reported, they often do not result in prosecution or conviction. This undermines the effectiveness of the law, allowing the practice to continue with impunity.
12. Few prosecutions have reportedly taken place in The Gambia since the introduction of the Women's (Amendment) Act 2015. However, case details are limited, and information about whether any sentences were followed through is not widely available. The first widely reported case in the Banjul Magistrate Court concerned the death of a five-month-old girl resulting from FGM in 2016. The accused included the girls' mother, grandmother, and the cutter. Further details of whether charges were followed through are not available.<sup>x</sup>A report published by the UNFPA-UNICEF Joint Programme to Eliminate Female Genital Mutilation listed two arrests and cases brought to court in 2016.<sup>xi</sup>
13. In August 2023, the first conviction under the law was reported since its enactment in 2015. Through the intervention of GAMCOTRAP, five out of eight girl-children were saved, while the other three fell victim to FGM. The circumciser and her team were arrested, and a court action was initiated. The case was taken up in the Kaur/Kuntaur Magistrates' Court, and the verdict was delivered, convicting the three circumcisers and ordering them to pay a fine of 15,000 dalasis or serve a one-year prison sentence.<sup>xii</sup> It is also pertinent to note that the convicted circumcisers broke the law banning FGM and an oath made in 2013 not to circumcise anymore. One of the convicted circumcisers was, in fact, trained by GAMCOTRAP and was among the group of circumcisers who declared to abandon the practice in 2013 among 30 circumcisers during the 4th Dropping of the Knife Ceremony in Wassu. She was given a bakery, and her son was trained to operate it as an Alternative Employment Opportunity (AEO) to abandon the knife. She was given extra resources to

address the challenges she was facing in her bakery. The prosecution only took place after all possible efforts were made to educate and empower the circumciser to adopt a different path.

14. The fine imposed by the Court on the three convicted persons, in this case, was paid by a religious leader, Imam Abdoulie Fatty, on behalf of the convicted persons.<sup>xiii</sup> Imam Fatty then undertook a public campaign calling for the repeal of the Anti-FGM law and also called for mass cutting of the girls to take place in defiance of the law. Despite this open public propagation of FGM, no action has been taken against Imam Fatty, though such propagation is explicitly prohibited under Gambian law.
15. The low prosecution rate allows the practice of FGM to persist, as perpetrators may feel emboldened by the lack of enforcement of legal consequences. This undermines efforts to eradicate FGM and protect the health and rights of women and girls. The practice continues to expose women and girls to severe health risks, having long-term implications for their well-being and development. It also perpetuates discrimination against women and girls, reinforcing harmful gender norms and stereotypes.

#### **Gaps in the Women's (Amendment) Act, 2015**

16. Medicalized FGM is not prevalent in The Gambia, as less than 1% of women are cut by a health professional.<sup>xiv</sup> Almost all FGM continues to be carried out by traditional circumcisers. Despite its rarity, there have been many arguments raised during the debate on the proposed repeal of the anti-FGM law, where various stakeholders have called for allowing medicalized FGM. As noted by the WHO, medicalizing FGM does not negate its harmful effects. In order to make it clear that all forms of FGM, including when it is performed by healthcare practitioners, are prohibited by the law, it is important to amend Gambia's law to include a specific provision holding healthcare providers, including doctors, nurses, and midwives, who perform FGM criminally responsible, and highlighting their heightened duty of care to do no harm to patients. The wide scope of the current legislation can be interpreted to apply universally and should, therefore, punish any health professional involved in the practice. However, in light of the recent regressive debates, explicit prohibition of medicalization in the law is recommended.
17. While FGM is outlawed in The Gambia, the practice has been shrouded in secrecy and moved across borders to avoid prosecution. The Gambia borders Senegal, where prevalence remains as high as 73% in some southern regions<sup>xv</sup> despite national legislation prohibiting the practice. While data is limited, the movement of families and circumcisers across borders to perform FGM and avoid prosecution remains a problem in The Gambia, and girls living in border communities are particularly vulnerable. The Women's (Amendment) Act 2015 does not, however, specifically address this challenge and does

not criminalize acts of cross-border FGM. Perpetrators may exploit this legal void to evade accountability, perpetuating the practice across borders.

### **Issue - Child Marriage**

18. The Gambia has implemented several interventions to combat child marriage. The Children's (Amendment) Act was enacted in July 2016, establishing the minimum age for marriage to be 18 years. In June 2016, the country launched the African Union campaign to end child marriage, designating the month for nationwide sensitization efforts led by First Lady Madam Zineb Jammeh. With UNICEF's support, the Gambian Women's Bureau collaborates with Tostan through the Community Empowerment Programme (CEP) to empower girls and involve communities in ending child marriage. Educational initiatives have increased school enrolment for girls, serving as a strong deterrent to early marriage. Yet child marriage continues to affect girls in The Gambia.

### **Prevalence of child marriage in The Gambia**

19. According to the latest Demographic Health Survey 2019-2020, 23% of women aged 20-24 in The Gambia were married before the age of 18.<sup>xvi</sup> Demographically, the prevalence of child marriage is notably higher among rural communities, with urban women marrying at a median age of 21.0 years compared to 17.0 years for rural women. Additionally, educational attainment plays a critical role, as women with secondary or higher education marry at a median age of 22.2 years. In contrast, those without education marry at a median age of 17.3 years. Economic disparities also contribute to the issue, with women from the wealthiest quintile marrying at a median age of 20.8 years compared to 17.2 years for those from the poorest quintiles.<sup>xvii</sup>
20. The lack of adequate enforcement mechanisms, limited resources, and insufficient awareness among local authorities and communities exacerbate the issue. As a result, a substantial number of underage marriages continue to occur, particularly in regions like Janjanbureh (55%), Basse and Mansakonko (47%), Kuntaur (44%), and Kerewan (41%). Ethnic groups such as the Sarahule (46%), Fula (45%), and Wollof (34%) also exhibit higher prevalence rates of child marriage.<sup>xviii</sup>

### **Inadequate enforcement of the Children's (Amendment) Act, 2016**

21. Despite the enactment of The Children's (Amendment) Act in 2016, which sets the minimum age for marriage at 18, The Gambia faces significant challenges in enforcing this law, particularly in rural areas. Numerous child marriages go unregistered and are only symbolically formalized in ceremonies, creating loopholes that impede the effective enforcement of the legislation. In addition, there is no minimum age of marriage under Islamic Sharia law, which dominantly governs family law in The Gambia. This raises the

concern that child marriage continues to take place in customary and religious settings despite the provisions of the Children's (Amendment) Act 2016.<sup>xix</sup>

### **The Gambia's international legal obligations**

22. Failure to take adequate steps to end harmful practices such as child marriage and FGM violates The Gambia's obligations under international and regional human rights law. The obligations to uphold the rights of women and girls are outlined in treaties ratified by the Gambia, such as:

- Article 2(f) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires States to enact measures to modify or abolish discriminatory practices.
- Article 24 of the Convention on the Rights of the Child (CRC) obligates the State to abolish traditional practices that harm children's health.
- Article 2 of the Convention against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment (CAT) provides that State parties are required to take legislative measures to prevent torture and inhumane treatment and provide redress to victims of torture.
- Article 18 of the African Charter on Human and Peoples' Rights (ACHPR) provides that State parties have a duty to eliminate all discrimination against women and protect the rights of women and children.
- Article 21(1)(a) of the African Charter on the Rights and Welfare of the Child (ACRWC) requires that States parties to the present Charter take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child, and in particular those customs and practices prejudicial to the health or life of the child.
- Article 5 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) obligates States parties to eliminate harmful practices, including all forms of FGM and medicalized FGM, through legislative measures.

### **Recommendations on ending FGM and child marriage**

23. We respectfully urge the following recommendations to be issued to The Gambia to take the following measures to combat FGM and child marriage:

#### **On FGM:**

- Safeguard the gains already made towards the prohibition of FGM through the enactment of the Women's (Amendment) Act of 2015 by ensuring that any attempt to repeal the law is prevented, including by adding a clause in the draft Constitution regarding the right of women and girls to be protected from FGM.
- Amend and strengthen the Women's (Amendment) Act, 2015 to include specific prohibitions on medicalized FGM and cross-border FGM, including by mandating extra-territorial applicability of the provisions relating to FGM.
- Provide training for law enforcement officials, prosecutors, and judges on the provisions and need for effective enforcement of the Women's (Amendment) Act, 2015, emphasizing the importance of accountability and justice for survivors.
- Engage with traditional and religious leaders, community elders, and influential stakeholders to garner support for retaining and enforcing the Women's (Amendment) Act, 2015.
- Conduct comprehensive public awareness campaigns to educate communities about the harmful effects of FGM and the legal protections in place.
- Establish a national database to collect and analyze systematic data on FGM prevalence, reported cases, prosecutions, and convictions.
- Strengthen cooperation with neighboring countries to coordinate efforts to combat cross-border FGM.
- Develop and implement comprehensive action plans to fulfill the commitments made regarding harmful cultural practices such as FGM under treaties ratified by The Gambia.
- Encourage research on FGM's social, economic, and health impacts to better understand the practice and develop effective prevention and response measures.
- Launch robust media campaigns to highlight the dangers of FGM and the importance of legal protection. Utilize social media, radio, television, and print to reach a wide audience.

#### **On Child Marriage:**

- Develop and implement robust birth and marriage registration systems, particularly in rural areas, to ensure all marriages are documented.
- Build the capacity of law enforcement agents in the investigation of child marriage cases.
- Conduct continued nationwide awareness campaigns to educate communities about the legal age of marriage and the health and social impacts of child marriage.

- Collaborate with religious and traditional leaders to advocate against child marriage and promote compliance with the law.
- Increase investment in education, particularly for girls, to keep them in school.
- Provide vocational training for girls to empower them economically.
- Expand access to adolescent reproductive health services and contraception to prevent early pregnancies.

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<sup>iii</sup> UPR of The Gambia (2nd cycle-28th session) ,Matrix of Recommendations.Accessed at <[Universal Periodic Review - Gambia | OHCHR](#)>

<sup>iv</sup> UPR of The Gambia(3rd cycle-34th session) ,Matrix of Recommendations.Accessed at <[Universal Periodic Review - Gambia | OHCHR](#)>

<sup>v</sup> The Women’s(Amendment) Act,2015

<sup>vi</sup> National Policy for the Elimination of Female Genital Mutilation In the Gambia. Available at: [https://www.google.com/url?q=https://gambia.unfpa.org/sites/default/files/pub-pdf/national\\_policy\\_for\\_the\\_elimination\\_of\\_fgm.pdf&sa=D&source=docs&ust=1719307675620881&usg=AOvVaw1wXATA0Ej3E7bicsj7\\_MiW](https://www.google.com/url?q=https://gambia.unfpa.org/sites/default/files/pub-pdf/national_policy_for_the_elimination_of_fgm.pdf&sa=D&source=docs&ust=1719307675620881&usg=AOvVaw1wXATA0Ej3E7bicsj7_MiW)

<sup>vii</sup> Government of The Gambia, Demographic and Health Survey (DHS), 2019 <<https://dhsprogram.com/pubs/pdf/FR369/FR369.pdf> > p 299

<sup>viii</sup> Gambia keeps ban on female genital cutting after fears it would return: <https://www.washingtonpost.com/world/2024/07/15/gambia-fgm-overtun-ban/>

<sup>ix</sup> Republic of The Gambia, *Report of the Joint Committee on Health and Gender on the Women’s (Amendment) Bill 2024*, July 2024.

<sup>x</sup> The Gambia Committee on Traditional Practices affecting the Health of Women and Children (2016) ‘News Report: New Legislation on FGM Applied in Gambian Court’, Women’s UN Report Network, 21 March. Available at <http://www.wunrn.com/2016/03/gambia-new-legislation-on-fgm-applied-in-gambian-court/>.

<sup>xi</sup> UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting (2017) 2016 Annual Report of the UNFPA-UNICEF Joint Programme on FGM/C: Accelerating Change, p.38. Available at [https://reliefweb.int/sites/reliefweb.int/files/resources/UNFPA\\_UNICEF\\_FGM\\_16\\_Report\\_web.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/UNFPA_UNICEF_FGM_16_Report_web.pdf)

<sup>xii</sup> IGP VS YASSIN FATTY, NANO JAWLA AND KADIJATOU JALLOW

<sup>xiii</sup> <https://standard.gm/imam-fatty-others-pay-fines-for-women-convicted-of-fgm/>

<sup>xiv</sup> The Gambia Bureau of Statistics (GBOS) and ICF International (2014) *The Gambia Demographic and Health Survey 2013*, p.223. Banjul, The Gambia, and Rockville, Maryland, USA: GBOS and ICF International. Available at <http://dhsprogram.com/pubs/pdf/FR289/FR289.pdf>

<sup>xv</sup> Agence Nationale de la Statistique et de la Démographie (ANSD) [Sénégal], et ICF. 2018. *Sénégal : Enquête Démographique et de Santé Continue (EDS-Continue 2018)*.

<sup>xvi</sup> The Gambia Demographic and Health Survey 2019-20, <https://dhsprogram.com/pubs/pdf/FR369/FR369.pdf>

<sup>xvii</sup> UNICEF Gambia Country Annual Report(2019)

<sup>xviii</sup> Ibid

<sup>xix</sup> Equality Now, *Gender Equality in Family Laws in Africa: An Overview of Key Trends in Select Countries, 2024*, <https://equalitynow.org/resource/family-law-africa-report/>