**THE WOMEN’S (AMENDMENT) BILL 2023 POSES A SERIOUS THREAT TO THE RIGHTS AND DIGNITY OF WOMEN AND GIRLS IN THE GAMBIA**

Concerned at the threats posed to the life and health of an estimated over one million Gambian women and girls, and alarmed at the risks to the health, education, livelihoods, and cyclical lifetime consequences that the repeal of the Harmful Traditional Practices Act Repeal Bill by the Gambian parliament would have for Gambian women and girls; the Committee on the Elimination of Discrimination against Women (the CEDAW Committee) and the Committee on the Rights of the Child (the CRC Committee) calls on the Gambian government to reject the proposed regressive private member’s bill to revoke the prohibition of Female Genital Mutilation (FGM) contained in the “Women’s Amendment” Act (2015) which was a great step forward for women and girls in the Gambia. To overturn the ban on FGM would be a regressive step which we see as leading to serious violations of women’s and girls’ human rights.

FGM is recognized as a harmful practice and a form of gender-based violence against women and girls, torture and cruel, inhuman, or degrading treatment by the CEDAW Committee, the Committee on the Rights of the Child, UN Women, UNFPA, UNICEF, the World Health Organization, and the African Commission on Human and Peoples’ Rights. In every form in which it is practiced, FGM is a violation of girls’ and women’s human rights to health, security and dignity, and a life free of torture (UNICEF). From available research, over 44,320 girls and young women, mostly from Africa, die every year due to FGM. The reported prevalence of FGM among Gambian women and girls is 75.7% across all Local Government Areas (LGAs) (FGMC Research Initiative; MICS 2018).

Furthermore, empirical research shows the clear adverse health outcomes of FGM, which impair women’s and girls’ sexual, reproductive, and mental health, and correlate with diminished academic and economic achievements in affected women and girls:

* FGM inflicts severe immediate and enduring physical and psychological trauma manifesting as chronic pain, recurrent infections, sexual dysfunction, and obstetric/childbirth complications on its victims (McCauley & van den Broek, 2019).
* FGM has profound economic repercussions, substantial costs of managing health complications and long-term impacts on education and future employment opportunities for girls and young women (World Economic Forum, 2015)
* FGM causes excessive bleeding and hemorrhaging, shock, impaired healing, and excessive scar tissue (keloids) problems, painful urination, urinary tract infections, obstetric fistula, sexual dysfunction and reproductive health problems, mental health problems, and death. The current and future financial cost of health care for women living with conditions caused by FGM amounts to a staggering USD 1.4 billion annually (WHO, 2020; 2024).

Given the horrific, far reaching socio-economic and life-threatening impact of FGM, Joint General Recommendation No. 31 of the CEDAW Committee/General Comment No. 18 of the Committee on the Rights of the Child (2019) calls on all States parties to these Conventions, including the Gambia, to prevent all actions, and discriminatory laws and practices that undermine the rights of women and girls. Specifically, the CEDAW and CRC Conventions both require States parties to:

1. **Clarify the obligations** to eradicate harmful practices inflicted upon women and girls under eighteen, rooted in gender stereotypes and patriarchal prejudices;
2. **Provide a comprehensive framework** to understand and address harmful practices, including those that discriminate against children;
3. **Institute a comprehensive strategy and plan of action** to effectively address FGM to better safeguard the life and well-being of women and girls and to protect them from torture and long-term health effects.

In 2015, in its concluding observations on the combined second and third periodic reports of the Gambia, the CRC Committee welcomed the State party’s awareness-raising activities to combat the practice of female genital mutilation and the existence of provisions in the Children’s Act 2005 that no child shall be subjected to customs and practices that are prejudicial to the health and life of the child. It also noted the delegations’ statement that the National Plan of Action for Accelerated Abandonment of Female Genital Mutilation 2013-2017 was being implemented and urged the State Party to adopt legal provisions fully criminalizing the practice of female genital mutilation.

The CEDAW Committee recalls its concluding observations on the sixth periodic report of the Gambia adopted in October 2022, which recognise the progress made by the State Party through the 2015 amendment to section 32 (a) and (b) of the Women’s Act to criminalize FGM, and the adoption of the national strategy and policy on FGM (2021–2030) (para. 19). Despite these significant positive steps, the CEDAW Committee reiterated its concern that this harmful practice remains widespread and affects over 73 per cent of girls and women aged between 15 and 49 years of age in the State party. It also noted that only one case of FGM had been brought before the courts since the ban of this harmful practice in 2015. Furthermore, paragraph 20 of the Concluding Observations contained several recommendations that the State party address the causes and consequences of FGM. The repeal of the ban on FGM would run counter to the aforementioned recommendations of the CRC and CEDAW Committees and revert the progress achieved thus far, contrary to the obligations of the Gambia under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. A move to reverse progress would amount to a retrogressive act and would further expose women and girls in the Gambia to the scourge of FGM.

The CEDAW and CRC Committees note that Article 4 of the Constitution of the Gambia establishes the supremacy of the Constitution in the Gambian legal order and provides that any other law inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void. Chapter IV of the Constitution provides for the protection of fundamental rights and freedoms, including the right to life (Article 18), the right to be protected from torture or inhuman or degrading punishment or other treatment (Article 21), while Articles 28 and 29 call for respect for the rights of women and children, respectively, and Article 33 guarantees the right to equality and protection from discrimination.

In particular, the CEDAW and CRC Committees note that Article 32 of the Constitution, which guarantees the right to culture, including the right of every person to enjoy, practice, profess, maintain and promote any culture, language, tradition or religion, provides that this right is subject to the terms of the Constitution and must not impinge on the rights and freedoms of others. The CEDAW and CRC Committees observe that the proposed retrogressive bill to decriminalize FGM by repealing its ban is discriminatory and contrary to the human rights of women and girls enshrined in the Convention on the Elimination of All Forms of Discrimination against Women, in the Convention on the Rights of the Child and in the Gambian Constitution.

As a State party without reservations to the CRC Convention since 1990[[1]](#footnote-1), and to the CEDAW Convention since 1993, the Gambia is under the obligation to safeguard the rights of all women and girls within its jurisdiction. Furthermore, the Gambia has ratified and domesticated the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol), which aims to protect women and girls from discrimination and gender-based violence. We urge the Gambian government to hear the outcry of its citizens and heed the concern of global and regional mechanisms speaking out in protest of the repeal. To effectively safeguard the lives, health and freedom from gender-based violence of Gambian women and girls, the CEDAW and CRC Committees urge the Gambian National Assembly to discard the proposed Women’s (Amendment) Bill 2023, which would reverse gains realized for the women and girls of the Gambia. In the instance that the bill is passed by the National Assembly, the CEDAW and CRC Committees appeal to the President to exercise his legislative power under Article 100 of the Constitution to return the bill to the National Assembly for reconsideration. The legislation, as currently contemplated, is incompatible with the human rights of girls and women and gravely threatens their lives, future health, and livelihood. The stance of the CEDAW and CRC Committees are clear: this bill must be rejected.

1. <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en> [↑](#footnote-ref-1)