

# The Dangerous Reversibility of Women's Rights: The Case of Female Genital Mutilation in The Gambia

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## Mame-Penda Ba

*Good morning Dr. Isatou Touray. Thank you for joining us today in order to discuss the current debate around FGM in The Gambia. Before we start, could you please tell us a bit more about yourself?*

## Isatou Touray

Good morning. Thank you for the invitation. I am Dr. Isatou Touray from The Gambia. After completing my secondary education, I pursued higher studies at Usmanu Danfodiyo University Sokoto in Nigeria, where I obtained a bachelor's degree in Education and English. Later, I went on to study at the International Institute of Social Studies in The Hague, Netherlands, earning a master's degree in Development Studies and specializing on women and development. Subsequently, I completed my PhD in Development Studies at the Institute of Development Studies, University of Sussex, United Kingdom.

Throughout my career, I have been deeply involved in social activism, particularly in the fight against Female Genital Mutilation (FGM). In 1984, I co-founded The Gambia Committee on Traditional Practices (GAMCOTRAP) with the aim of putting an end to FGMS. Serving as the Executive Director of GAMCOTRAP, I advocated for the eradication of this harmful practice. Additionally, I chaired The Gambia Chapter of the West Africa Network for Peacebuilding (WANEP) from 2006 to 2011 and served as the Secretary-General of the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children from 2009 to 2014.

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In 2016, I became the first female presidential candidate in The Gambia. Although I withdrew from the race to endorse Adama Barrow and Coalition 2016, I continued my political journey by accepting various ministerial positions. I was appointed Minister of Trade, Regional Integration and Employment in 2017 and later served as Minister of Health and Social Welfare following a reshuffle in 2018.

In 2019, I was appointed Vice-President of The Gambia, succeeding Ousainou Darboe, in a significant cabinet reshuffle. Throughout my career, I have been dedicated to promoting gender equality, social justice, and public health in The Gambia, and I remain committed to serving my country and its people to the best of my abilities.

Mame-Penda Ba

*What is Female Genital Mutilation (FGM) and can you provide us with a context of what is happening now in The Gambia?*

Isatou Touray

Female Genital Mutilation (FGM) involves the partial or total removal of external female genitalia for non-medical reasons. In The Gambia, FGM is deeply rooted in ethnic, traditional, cultural, and sometimes religious beliefs.

Gambian MPs voted overwhelmingly on March 18, 2024, in favor of the bill to lift the ban on female genital mutilation in force in the country since 2015. The text was subsequently referred to a parliamentary committee, which is expected to carry out a final review before a final vote in around three months' time.

Mame-Penda Ba

*What is your opinion on the proposed Women's Amendment Bill 2024?*

Isatou Touray

The plans to introduce a Private Members Bill by the National Assembly Member for Foni Kansala, Honourable Almameh Gibba is worrying as it puts The Gambia not in tandem with progress made by the community of nations to promote women and children's rights in The Gambia. I think that the bill that seeks to lift the ban on FGMs in The Gambia, intends to put women and girls in harm way which is a violation of their Sexual and Reproductive Health and Rights and right to life. Repealing the anti-FGM bill threatens all the progress made in advancing gender equality and human rights of women and girls. The Bill entitled, Women's amendment Bill 2024 and intended to decriminalize FGM was introduced by the NAM of Foni Kansala, who noted that **“a practice deeply rooted in the ethnic, traditional, cultural and religious beliefs of the majority of The Gambian. It seeks to uphold religious purity and safeguard cultural norms and values, --The current ban on Female Circumcision is a direct violation of citizen's rights to practice their culture and religion as guaranteed by the constitution.”**

Mame-Penda Ba

*Do you think that legitimizing FGM using culture and religion is a valid argument?*

Isatou Touray

FGM is not prescribed by any religion. A few Muslim pro FGM activists, who would want us to believe it is a religious obligation could not present any authentic sources from the Quran or authentic Sunna of the prophet (PBUH). All the Hadiths they quote are unauthentic. The OIC in its 2024 summit, The grand mufti of Al Azar, a leading center of Islamic jurisprudence etc. all strongly deny any religious basis for FGM in Islam and disassociate the practice from Islam. Accordingly, many Islamic scholars noted that FGM is purely a cultural practice which has no religious value. The Islamic Shari'a Council, the Muslim College and the Muslim Council of Britain (MCB) have all condemned the practice of FGM within the Muslim community. It adds that FGM is not an Islamic requirement

and that there is no reference to it in the Holy Qur'an that states girls must be circumcised. Similarly, the practice does not exist in certain Islamic countries like Morocco, Tunisia, Algeria and Libya. Also other Muslim countries where it used to be practiced such as Egypt, Iran and Saudi Arabia, they all have banned the practice. The Hadith that people refer to is noted to be unauthentic and this is well established in existing literature regarding FGM (see publication on FGM in the Context of Islam). There is no denying that it is rooted in culture. Culture is not static but dynamic and is subject to change, particularly when there is a preponderance of evidence of being inimical to the health and wellbeing of women and girls.

Furthermore, the Organization of Islamic Conference (OIC) comprising 57 countries has just concluded its 15th summit here in The Gambia (4<sup>th</sup>-5<sup>th</sup> May, 2024) whose chairmanship is now under H.E. Adama Barrow, President of the Republic of The Gambia. On the occasion of the International Day of Zero Tolerance for FGM 2024, in a press release attached herewith and which dates back to the 6<sup>th</sup> of February 2024, it **“Considers harmful practices like FGM are mere traditional customs without any proven religious sanction. On the contrary, the Islamic principles and values categorically condemn such practices and strongly advocate adopting legal administrative measures to comprehensively eliminate these practices not only as a religious imperative but also for achieving equality, equity, social justice and sustainable development”**. Similarly, The Covenant on the rights of the child in Islam article: 20(2) states, parents or the one legally responsible and states parents to the covenant shall: protect the child from practices and traditions which are socially or culturally detrimental or harmful to the health and from practices which have negative effects on his/her wellbeing, dignity or growth, as well as those leading to discrimination on the basis of sex or other groups in accordance with the regulations and without prejudice to the Islamic Shariah.

Mame-Penda Ba

*Can you elaborate on the consequences of FGM on women and girls?*

Isatou Touray

Global bodies like the WHO, UN and health experts within The Gambia and elsewhere all attest to the immense harm both physical and psychological that FGM inflicts on women and girl children. According to the World Health Organization (WHO), Female Genital Mutilation is a violation of women's and girls' rights, one that endangers their physical and mental health and limits their potentials to lead healthy and fulfilling lives.

It increases their risk of serious pain, bleeding and infections and the likelihood of other health complications later in life, including risk during childbirth, which can imperil the lives of their newborns “. It is truly a very harmful practice all in the name of culture. A recent press release by The European Union Directive 2024 on VAW has classified FGM as a crime. The European Parliament also recently passed a resolution where it **“Urges The Gambian Parliament to demonstrate its commitment to international human rights law and multiple international and regional agreements to which The Gambia is a signatory, to protect the rights of women and girls, and therefore to reject the proposal and uphold the criminalization of FGM”**. While the UN encourages the preservation and practice of cultural and historical heritage, it does not encourage the practice of harmful cultural practices under which FGM falls. Mutilation is defined as cutting or excision of any part of the body. In the absence of any religious (as in the case of females), medical and clinical indications, cutting any part of the body is by definition mutilation.

Apart from the international and regional legal frameworks The Gambia has signed and ratified, the supreme law of the Country derives its authority and powers from the Constitution and Statutes. Thus the Constitution and Statutes of The Gambia have adequately dealt with FGM and other harmful practices. The Constitution of The Gambia protects women's and girls' right to life, freedom from torture and inhuman treatment, right to full and equal dignity, and freedom from discrimination based on gender. The right to enjoy, practice, profess, maintain, and promote any culture or tradition

or religion is limited and subject to the condition that it does not impinge on the rights and freedoms of others. As stated by article 21 ***“No person shall be subject to torture or inhuman degrading punishment or other treatment.”***

Mame-Penda Ba

*Why do you think it is important to maintain the current law prohibiting FGM and rejecting the provisions of the Women’s Amendment Bill 2024?*

Isatou Touray

I strongly believe that it is highly important to maintain the current law prohibiting FGM and rejecting the provisions of the Women’s Amendment Bill 2024 for several reasons. Firstly, having a law prohibiting and punishing FGM is a crucial fundamental step to upholding and protecting the rights of women. Secondly, FGM has been classified as a form of torture, and freedom from torture is one of the non-derogable rights under international law. Finally, medicalization of FGM will not remedy this human rights violation, as it has no benefit for women and girls and still poses significant risks.

Mame-Penda Ba

*In your opinion, what are the key actions needed to put an end to FGM and create a safer, healthier, and more equitable society for all in The Gambia?*

Isatou Touray

I believe that through dialogue, collaboration, and a commitment to upholding fundamental rights and values, we can work together to end the practice of FGMs in The Gambia. It is essential to support the preservation of laws prohibiting FGM and invest in sensitizing the community and adopting programs that change social and cultural norms. The Gambia should recognize that the effective implementation of the Law to protect the girl-child is towards the right direction. The National Assembly Members should engage in passing positive laws that will bring progress and advancement to our nation.