

JOINT PRESS STATEMENT FOR IMMEDIATE RELEASE:

Expression of Concern by the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child over the Ongoing Debate on Female Genital Mutilation in The Gambia

Banjul and Maseru, 14 September 2023

The African Commission on Human and Peoples' Rights (the African Commission) and the African Committee of Experts on the Rights and Welfare of the Child (the Children's Committee/ACERWC) wish to express deep concern on the current regressive Parliamentary debate advocating for the repeal of laws that prohibit Female Genital Mutilation (FGM) in The Gambia. This debate was sparked by a judgment in a Magistrates' Court in Kaur/Kuntaur, convicting three individuals for their involvement in the performance and complicity in FGM, actions in direct contravention of the provisions under Section 32(a) and (b) of the amended Women's Act of 2015. The matter was presented to the National Assembly on September 11, 2023.

In this regard, the African Commission and the Children's Committee express profound concern over the ongoing efforts to reverse the progressive legal measures established in the amended Women's Act of 2015. This crucial legislation was enacted to protect the rights and well-being of women and girls by criminalising the practice of FGM and complicity in the practice. The African Commission and the Children's Committee recognize the novelty of the abovementioned judgment as the first case of prosecution since the enactment of the law in 2015.

While the African Commission and the Children's Committee commend the Government of The Gambia for its dedicated commitment to protecting the rights of women and children by criminalising FGM, it is imperative to underscore the importance of the Government's sustained efforts to fulfill its obligation in safeguarding the rights and well-being of women and girls in The Gambia. The African Commission and the Children's Committee are of the view that the reversal of the legislation is not the solution. Dialogue with various stakeholders, including religious and traditional leaders, is the way to uphold the rule of law. The African Commission and the Children's Committee are available to facilitate the dialogue, sharing the experience of various countries of the Continent, including those sharing the same religious and traditional background as The Gambia.

In line with the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, and the Protocol to the African Charter on Human

and Peoples' Rights on the Rights of Women (Maputo Protocol), the African Commission and the Children's Committee appeal to the Government of The Gambia to safeguard girls and women from the harmful practice of FGM. Particularly, the Government is urged to prohibit, through legislative measures backed by sanctions, all forms of FGM and eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth, and development of the child, as enshrined in Article 5(b) of the Maputo Protocol and Article 21(1) of the African Children's Charter.

In conclusion, the African Commission and the Children's Committee urge the Government of The Gambia to firmly abide by and uphold the provisions of the African Charter, the Maputo Protocol, and the African Charter on the Rights and Welfare of the Child. These instruments should serve as guiding principles in the Government's endeavours to safeguard the rights and well-being of women and children. It is crucial that the Government incorporates these principles into its decision-making processes, legislative actions, and implementation of measures aimed at eradicating harmful practices like FGM. By doing so, it would ensure that the complete fulfilment of the duty to save lives and preserve the rights of all individuals is guaranteed.

Jointly Issued by:

Hon. Commissioner Dr. Litha Musymi-Ogana

The Country Rapporteur for Human Rights Issues of the African Commission on Human and Peoples' Rights for The Gambia

Hon. Hermine Kembo,

The Country Rapporteur of the Gambia at the African Committee of Experts on the Rights and Welfare of the Child, African Union Special Rapporteur on Ending Child Marriage and Other Harmful Practices