

# THE LAW IN THE GAMBIA ON FGM/C AND GBV

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## UNCRC

- Convention on the rights of the Child (1989) The Gambia is a signatory of the United Nations Convention on the Rights of Children and other international instruments.
- UNCRC adopted November 20, 1989 and ratified by Government August 3<sup>rd</sup> 1990 and ACRWC 2000 respectively.
- FGM/C is often practiced on underage girls, therefore the practice violates children's rights as defined by the Convention on the Rights of the Child (CRC). Particularly
  - o the right to be free from discrimination (Article 2),
  - o the right be protected from physical mental violence (Article 19,
  - o the right to enjoy the highest attainable standard of health (Article 24 and
  - o freedom from torture or other cruel, inhuman or degrading punishment (Article 37)

## NATIONAL LEGISLATIONS

- In term of enforcement, various laws are in place any time violations occurred i.e.
  - o Constitution of The Gambia (1997),
  - o The women's act (2010 and its amendment (2015),
  - o Children's act (2005, and its amendment (2026
  - o Domestic and Sexual offenses act (2013,
  - o Trafficking in person act (2007),
  - o Tourism Offence (2003,
  - o Labor act (2007)
  - o Persons with disability act 2021 and
  - o the criminal Code Vol III
- All these are comprehensive parts of legislation that address the right of girls, women, children and victims of SGBV in The Gambia, especially their rights to dignity, life, integrity security of a person, freedom from discrimination, education and training, health and health services, enjoyment of reproductive rights, acquire prosperity, inheritance, marry etc.

## INSERTIONS

The Women's (Amendment) Act 2015 addressed the issue of harmful practices for the first time in The Gambia by introducing

- o Section 32A (Prohibition of female circumcision) and
- o Section 32B ((Accomplices to female circumcision

Which criminalize the practice as follows:

- o Section 32A (1) – Prohibition of female circumcision
- o Section 32A (2) (a) – Offense and the Punishment
- o Section 32A (2) (b) – Offence of life
- o Section 32A (3) – Definition of female circumcision
- o Section 32B – (1&2) Accomplices to Female circumcision

## COMMENCEMENT DATE

Was assented on the 27<sup>th</sup> of December 2015 by the former President

## THE WOMEN'S (Amendment) ACT 2515

- 32 (A) "Prohibition of Female Circumcision
- (1) A person shall not engage in female circumcision
- (2) Any person who engages in female circumcision
  - (a) Faces three years in prison and a fine of fifty thousand Dalasis, or to both
  - (b) And where the female circumcision cause death, to life imprisonment

## THE WOMEN'S (Amendment) ACT 2515 – *Defining Female Circumcision*

- § 32 (A)(3) defines female circumcision as:
  - (a) The excision of the prepuce with partial or total excision of the clitoris (clitoridectomy)
  - (b) The partial or total excision of the labia minora
  - (c) The partial or total excision of the external genitalia (of the labia minora and the labia major), including stitching
  - (d) The stitching with thorns, straw, threat or by other means in order to connect the excision of labia and the cutting of the vagina for the purpose of narrowing it
  - (e) The symbolic practices that involved the nicking and picking of the clitoris to release drops blood
  - (f) To engage on any female genital mutilation or cutting

## ACCOMOLICES (PARTNER IN CRIME)

- Section 32B (1) – A person who requests, incites or promotes female circumcision by providing tools or by any other means commits an offence and is liable on conviction to imprisonment for a term on three years or a fine of 50.000 Dalasi, or both.
- Section 32B (2) - A person who knows that female circumcision is about to take place or has taken place, and fails, without good cause, to warn or inform, as the case may be, the proper authority promptly, commits an offence and is liable on conviction to a fine of ten thousand Dalasi.

## KEY PRINCIPLES FOR DEALING WITH FGM CASES OR OTHER TRADITIONAL HARMFUL PRACTICES

- Talk to the suspect and the complainant separately.
- Inform the complainant about confidentiality and disclosure
- Do not tell the suspect the source of information
- Listen calmly to the complainant as she tells her story
- Avoid telling your own story of violence
- Help her think through and consider the safety opinions for herself and her children
- Help her assess her risk
- Give her information about the available resources for the abused
- Refer her for further support in hospitals, police, NGBV, DSW, etc.

## **CARE AND PROTECTION**

- DVA S.20 Victims of GBV or any other person with information about domestic violence may file a complaint with the nearest Police Stations/Department
- 21&22 Respond and Assistance
- CA. 75 (1) (a) (b) person to report child abuse and protection cases divulge the identity of a person who makes a report. He/she is also obliged by law to provide protection about his/her identity, especially if he/she wants to remain anonymous or where necessary

## **REPORTING & REFFERAL PROCEDURE**

- The survivor/victim herself or accompanied by someone or a neighbor or a relative can report the case
- Community members
- 199 GBV AND CHILD HELPLINE, 1313 Helpline
- The One-Stop-Center at Health Facility
- The Police
- MGCSW (DSW, DCA, DGWE)
- MOJ (SGBV unit)
- Other services providers e.g. NGOs and CSOs i.e. NALA, CPA, FLAG, NGBV etc.

## **CONCLUSION**

Prevention and Protection of Children and Women from all forms of GBV, abuse and exploitation is the responsibility of every sound minded person

**“The child you protect today might be your savior tomorrow”**