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**STATUS OF HUMAN RIGHTS IN THE REPUBLIC OF THE GAMBIA  
FOR THE 48<sup>TH</sup> SESSION OF THE  
UNIVERSAL PERIODIC REVIEW**

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## Status of Human Rights in The Gambia for the 48<sup>th</sup> Session of the Universal Periodic Review

### Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of The Gambia (The Gambia) for the 48th session of the Universal Periodic Review (UPR).

### Background

2. The Gambia is a country located in western Africa with a population of approximately 3 million people.<sup>1</sup> The country is predominately Muslim, with approximately 96% of the population identifying as Muslim, 3.8% as Christian, and 0.2% belonging to other religions.<sup>2</sup> In its 2024 World Watch List, Open Doors ranked The Gambia has the 73rd worst country for Christians.<sup>3</sup>

3. The Gambia's last review was held on November 5, 2019.<sup>4</sup> As a result of the review, The Gambia received 222 recommendations, 207 of which it supported.<sup>5</sup> Despite Christians facing persecution in The Gambia, there were no recommendations made regarding religious freedom. It was recommended by Germany, and supported by The Gambia, that the government “[r]aise awareness and enforce legislation prohibiting the practice of female genital mutilation.”<sup>6</sup>

### Legal Framework

#### *Religious Persecution*

4. Article 1 of the Constitution of The Gambia recognizes the country as a Sovereign Republic.<sup>7</sup> Under Article 25 of the Constitution of The Gambia, “[e]very person shall have the right to- . . . freedom to practise any religion and to manifest such practice.”<sup>8</sup> However, the

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<sup>1</sup> *The Gambia*, BRITANNICA (May 29, 2024), <https://www.britannica.com/place/The-Gambia>.

<sup>2</sup> *Id.*

<sup>3</sup> *Gambia: Full Country Dossier*, OPEN DOORS (Mar. 2024), <https://www.opendoors.org/research-reports/country-dossiers/WWL-2024-Gambia-Full-Country-Dossier.pdf>.

<sup>4</sup> *Universal Periodic Review – Gambia*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/gm-index> (last visited May 29, 2024).

<sup>5</sup> *The Gambia*, OHCHR, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/GM/Gambia\\_Infographic.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/GM/Gambia_Infographic.pdf) (last visited July 8, 2024).

<sup>6</sup> *UPR of Gambia (3rd Cycle – 34th Session) Thematic List of Recommendations*, OHCHR, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/GM/UPR34\\_Gambia\\_Thematic\\_list\\_of\\_Recommendations.docx](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/GM/UPR34_Gambia_Thematic_list_of_Recommendations.docx) (last visited May 29, 2024).

<sup>7</sup> CONSTITUTION OF GAMBIA 1996 (rev. 2018), art. 1, [https://www.constituteproject.org/constitution/Gambia\\_2018.pdf](https://www.constituteproject.org/constitution/Gambia_2018.pdf).

<sup>8</sup> *Id.* art. 25.

Constitution does allow for establishment of Muslim courts. Under Article 136 of the Constitution of The Gambia:

1. A Cadi Court shall be established in such places in The Gambia as the Chief Justice shall determine.

2. The Cadi Court shall be composed-

a. for hearings at first instance, by a panel consisting of the Cadi and two other scholars of the Sharia qualified to be a Cadi or Ulama;

3. The decision of the majority of a panel of a Cadi Court shall constitute the decision of the Court.

The Cadi Court shall only have jurisdiction to apply the Sharia in matters of marriage, divorce and inheritance where the parties or other persons interested are Muslims.<sup>9</sup>

5. Article 120 of the Penal Code of The Gambia criminalizes blasphemy. Under Article 120:

Any person who, with the deliberate intention of wounding the religious feelings of any person, utters or writes any word, or makes any sounds in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, is guilty of a misdemeanour, and is liable to imprisonment for one year.<sup>10</sup>

6. The Gambia is a party to the International Covenant on Civil and Political Rights (ICCPR).<sup>11</sup> Under Article 18 of the ICCPR:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.<sup>12</sup>

7. Moreover, under Article 27 of the ICCPR:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with

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<sup>9</sup> *Id.* art. 137.

<sup>10</sup> CRIMINAL CODE OF GAMBIA art. 120,  
[https://www.policinglaw.info/assets/downloads/Gambian\\_Criminal\\_Code.pdf](https://www.policinglaw.info/assets/downloads/Gambian_Criminal_Code.pdf).

<sup>11</sup> *Ratification Status for Gambia*, OHCHR,  
[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=64&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=64&Lang=EN) (last visited May 29, 2024).

<sup>12</sup> International Covenant on Civil and Political Rights art. 18, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171,  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.<sup>13</sup>

### *Female Genital Mutilation*

8. In addition to defining female genital mutilation (FGM), Article 32A of the Women’s Amendments Act, 2015 prescribes three years imprisonment (and/or a monetary fine) for engaging in FGM. If FGM causes death, the punishment increases to life imprisonment.<sup>14</sup>

9. The Gambia is a party to the Convention on the Rights of the Child (CRC)<sup>15</sup> and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol).<sup>16</sup> Article 19 of the CRC requires that children be protected from all forms of physical or mental violence.<sup>17</sup> Further, Article 5 (b) of the Maputo Protocol requires States Parties to “take all necessary legislative and other measures to eliminate such practices, including . . . prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them.”<sup>18</sup>

### **Religious Persecution**

10. Over the past few years, tensions between the Muslim majority and the Christian minority have been increasing.<sup>19</sup> Christians are concerned about the growing emergence of radical imams (clerics) and Muslim extremists who wish turn The Gambia into an Islamic state.<sup>20</sup> One Catholic priest shared that there are people “who don’t know the history of religious tolerance in The Gambia” and that “[t]hey speak openly on radio, cautioning Muslims against mingling with Christians. They warn Muslims against stepping in Christian houses, eating food prepared by Christians or attending Church events.”<sup>21</sup>

11. The tension between the Muslim majority and Christian minority that has been increasing over recent years is mostly seen at the community level.<sup>22</sup> The Gambia’s National Human Rights Commission has expressed its concern over hostile exchanges on social media, including threats to those of different religious beliefs.<sup>23</sup> In April 2023, a group of Christians

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<sup>13</sup> *Id.* art. 27.

<sup>14</sup> Women’s Amendment Act, 2015 art. 32A, <https://static1.squarespace.com/static/5a7c2ca18a02c7a46149331c/t/5aa0f4ede2c4830bd808329a/1520497906008/Women%27s+Act+Amendment+Act+2015.pdf>.

<sup>15</sup> *Ratification Status for Gambia*, *supra* note 11.

<sup>16</sup> Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, *adopted* July 11, 2003,

<https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/ProtocolontheRightsofWomen.pdf>.

<sup>17</sup> Convention on the Rights of the Child art. 19, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3,

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>18</sup> Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa art. 5 (b), *supra* note 16.

<sup>19</sup> *Rising Religious Tension in the Country*, THE VOICE (May 11, 2023),

<https://www.voicegambia.com/2023/05/11/rising-religious-tension-in-the-country/>.

<sup>20</sup> Agnes Aineah, *Catholic Priest Fears for the Future of The Gambia’s Christian Population Amid “Subtle” Persecution*, ACIA AFRICA (Apr. 20, 2024), <https://www.aciafrica.org/news/10761/catholic-priest-fears-for-the-future-of-the-gambias-christian-population-amid-subtle-persecution>.

<sup>21</sup> *Id.*

<sup>22</sup> *Rising Religious Tension in The Country*, *supra* note 19.

<sup>23</sup> *Id.*

were attacked as they were celebrating Easter.<sup>24</sup> President Barrow quickly condemned this attack and urged all Gambians to be tolerant and peacefully co-exist with people from other faiths.<sup>25</sup> He emphasized that The Gambia is a secular nation that protects the fundamental human rights of all its citizens, regardless of religion.<sup>26</sup> In a statement following the attack, President Barrow further stated:

My Government will not allow the destruction of our unique culture of religious tolerance and cohesiveness bequeathed to us by our forefathers. Zealots, fanatics or bandits masquerading as purists have no place in Gambian society.<sup>27</sup>

12. Additionally, Christians face persecution from family members and within their community.<sup>28</sup> Christian converts, particularly those from Muslim backgrounds, are physically and psychologically abused and are ostracized from their families and communities.<sup>29</sup> Christian women converts in particular face the horrifying reality of being forcibly married to a Muslim man.<sup>30</sup> Muslim family members use forced marriages to pressure the Christian women into rejecting Christianity.<sup>31</sup> One human rights expert explained that “[a] Christian woman that marries a non-Christian will have to convert to the husband's religion and raise the children in accordance with his religion. This results in a completely coercive conversion.”<sup>32</sup> This is especially problematic for Christian women, as the Sharia courts have jurisdiction over family matters, and can leave Christian women without legal protections.<sup>33</sup> For example, under Sharia law, custody of a child during a divorce is granted to the mother until the child reaches the age of seven, unless there is the fear that the child could “become familiar with the beliefs and habits of non-Muslims.”<sup>34</sup>

13. In 2020, a new constitution was drafted and put forth. This draft constitution recognized that people of many faiths live in The Gambia and that all of these faiths should be treated fairly and without discrimination.<sup>35</sup> The draft constitution also prohibited the President and the legislature from establishing any religion as the state religion.<sup>36</sup> This was not without controversy however, as the Supreme Islamic Council lobbied that the government should be non-secular and emphasize the importance of Islam in the country.<sup>37</sup> The draft constitution was ultimately rejected by the Parliament in September 2020.<sup>38</sup> Ensuring that the country is secular is critical in protecting the rights of religious minorities in The Gambia. These rights should

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<sup>24</sup> *Barrow Condemns Attacks on Christian Community*, THE POINT (Apr. 13, 2023), <https://thepoint.gm/africa/gambia/headlines/barrow-condemns-attacks-on-christian-community>.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Gambia: Full Country Dossier*, OPEN DOORS (Mar. 2024), <https://www.opendoors.org/research-reports/country-dossiers/WWL-2024-Gambia-Full-Country-Dossier.pdf>.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Custody of a Muslim Child by a Non-Muslim Woman*, THE CENTRE OF RSCH. EXCELLENCE IN CONTEMP. FIQH ISSUES, <https://islamicfiqh.net/en/articles/custody-of-a-muslim-child-by-a-non-muslim-woman-334> (last visited June 5, 2024).

<sup>35</sup> *Gambia Draft Constitution* 29 Mar. 20 art. 1, [https://www.constituteproject.org/constitution/Gambia\\_2020D](https://www.constituteproject.org/constitution/Gambia_2020D).

<sup>36</sup> *Id.* art. 153.

<sup>37</sup> *History of Blasphemy & Apostasy Laws*, EX-MUSLIMS, <https://persecution.exmuslims.org/countries/gambia/> (last visited Jun 5, 2024).

<sup>38</sup> *Gambia*, HUMANISTS INT'L (Nov. 15, 2021), <https://fot.humanists.international/countries/africa-western-africa/gambia/>.

not be dependent on who is currently in charge of the government. In The Gambia we have already seen how this can play out. In 2015, former President Yahya Jammeh was able to declare The Gambia to be an Islamic Republic.<sup>39</sup> Thankfully, in the 2017 election, Adam Barrow defeated Jammeh in the election and removed the Islamic designation from The Gambia's official name.<sup>40</sup>

14. Given the increasing push to make The Gambia and Islamic state, we are concerned about The Gambia's law regarding blasphemy and how this can be weaponized against the Christian minority. Blasphemy laws are very common in Muslim majority countries and have been used to disastrous effect. Criticizing Islam or simply sharing ideas that another religion may be true could be interpreted under the law as insulting Islam. For Christians, professing that belief in Jesus Christ is the only way to achieve salvation could be seen as violating The Gambia's Criminal Code because it could "wound the religious feelings" of a Muslim.<sup>41</sup>

### Female Genital Mutilation

15. In The Gambia, approximately 73% of women between the ages of fifteen and forty-nine have undergone FGM.<sup>42</sup> Further, despite being banned nearly a decade ago, 46% of girls under the age of fourteen have undergone FGM.<sup>43</sup> The rates of FGM remain extremely high because there is no real enforcement of this ban.<sup>44</sup> In fact, despite being banned in 2015, it wasn't until 2023 that anyone was actually fined for violating the FGM ban.<sup>45</sup> Now, despite supporting a recommendation to "[r]aise awareness and enforce legislation prohibiting the practice of female genital mutilation," The Gambia is poised to reverse the ban on this harmful practice.<sup>46</sup>

16. In March 2024, legislators in The Gambia's parliament voted 42-4 to advance a bill that would reverse the FGM ban.<sup>47</sup> In its June 2024 session, the parliament is expected to vote on the bill.<sup>48</sup> If the legislation is passed, it would have a disastrous impact on women in The Gambia. In addition to the practice being already violent, FGM has been shown to result in a wide range of health complications:

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<sup>39</sup> Alex Vines, *The Gambia: Africa's New Islamic Republic*, BBC (Jan. 22, 2016), <https://www.bbc.com/news/world-africa-35359593>.

<sup>40</sup> *The Gambia: President Adama Barrow Pledges Reforms*, AL JAZEERA (Jan. 28, 2017), <https://www.aljazeera.com/news/2017/1/28/the-gambia-president-adama-barrow-pledges-reforms>.

<sup>41</sup> CRIMINAL CODE OF GAMBIA art. 120, *supra* note 10.

<sup>42</sup> *Gambia: Parliament Must Not Lift the Ban Against Female Genital Mutilation*, AMNESTY INT'L (Mar. 15, 2024), <https://www.amnesty.org/en/latest/news/2024/03/gambia-parliament-must-not-lift-the-ban-against-female-genital-mutilation/#:~:text=Around%2046%25%20of%20girls%20aged,and%2049%20years%20of%20age>.

<sup>43</sup> *Id.*

<sup>44</sup> Patrick Idoko et al., *Obstetric Outcome of Female Genital Mutilation on the Gambia – an Observational Study*, NAT'L LIBRARY OF MEDICINE (Dec. 22, 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10117491/>.

<sup>45</sup> Sarah Ferguson, *Keeping Girls in the Gambia Safe from FGM*, UNICEF (May 9, 2024), <https://www.unicefusa.org/stories/keeping-girls-gambia-safe-fgm#:~:text=Q%3A%20Despite%20the%20criminalization%20of,violation%20of%20their%20human%20rights>.

<sup>46</sup> *Gambia: Parliament Must Not Lift the Ban Against Female Genital Mutilation*, *supra* note 42.

<sup>47</sup> Kaddy Jawo, "Over My Dead Body," *Say Gambian Mothers Amid Offers to Lift FGM Ban*, AL JAZEERA (Mar. 28, 2024), <https://www.aljazeera.com/features/2024/3/28/mothers-fight-to-protect-daughters-as-the-gambia-considers-unbanning-fgm>.

<sup>48</sup> *Gambia: Bill Threatens Female Genital Mutilation*, HUMAN RIGHTS WATCH (Apr. 19, 2024), <https://www.hrw.org/news/2024/04/19/gambia-bill-threatens-female-genital-mutilation-ban>.

Immediate complications include severe pain, shock, haemorrhage, tetanus or infection, urine retention, ulceration of the genital region and injury to adjacent tissue, wound infection, urinary infection, fever and septicemia. Haemorrhage and infection can be severe enough to cause death.

Long-term consequences include complications during childbirth, anaemia, the formation of cysts and abscesses, keloid scar formation, damage to the urethra resulting in urinary incontinence, dyspareunia (painful sexual intercourse), sexual dysfunction, hypersensitivity of the genital area and potentially increased risk of HIV transmission, as well as psychological effects.<sup>49</sup>

## Recommendations

17. While we are encouraged by the current President's statement to remain a secular state and promote religious tolerance, this could change with a different administration. This is noted by the push to make The Gambia an Islamic state. The Gambia must ensure that it remains a secular state and upholds freedom of religion for all its citizens. Further, we ask that The Gambia must work to protect Christian women for being forced to marry Muslim men and being coerced into renouncing their faith. No mother should have to choose between giving up her religious beliefs and custody of her own child. Further, all blasphemy laws must be repealed to ensure that everyone can freely practice their faith.

18. Additionally, The Gambia must protect girls and women from the dangers to FGM. The Gambia must reject efforts to legalize this harmful practice and must enforce the ban so that no more girls are needlessly harmed.

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<sup>49</sup> *Female Genital Mutilation (FGM) Frequently Asked Questions*, UNFPA (Mar. 2024), <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions>.