



Written by [Selwyn Duke](#) on November 21, 2018

Islam in U.S.: Judge Rules Law Against Genital Mutilation Unconstitutional

In a historic ruling, a Detroit federal judge has dismissed key charges against defendants in a female-genital-mutilation (FGM) case, ruling the law against it unconstitutional. As Fox 2 [reports](#):

U.S. District Judge Bernard Friedman ruled that congress [sic] does not have the authority to make FGM illegal, which it had been classified as ... under the Necessary and Proper Clause or the Commerce Clause.



The case involved Dr. Jumana Nagarwala who had been awaiting trial on female genital mutilation charges. She was arrested in the summer of 2017 and was released on a \$4.5 million bond.

According to the opinion filed by Friedman, congress [sic] had banned FGM under a statute that states “whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.”

Prosecutors said she did that with at least six girls at a clinic in the Detroit area, including two girls from Minnesota. The doctor denies that she committed a crime and says she performed a religious custom from her Muslim sect, the India-based Dawoodi Bohra.

... Two other people, Dr. Fakhruddin Attar and Farida Attar, have been charged in this case, the first U.S. case of its kind.

Many [critics](#) are understandably upset because FGM is internationally regarded as a human-rights violation. A “tradition” among many Muslims, the practice is considered an example of actual oppression of women, though Western feminists don’t appear to be as vocal about it as they should be (they’re busy combating acts such as [manspreading](#)).

FGM is barbaric and should be outlawed (at the state level). Yet given that a judge’s role is to rule on law’s constitutionality, leaving the law’s rectitude to legislators, Friedman’s opinion probably isn’t the outrage it seems on the surface.

As the *Detroit News* [reports](#), relating the judge’s reasoning, ““There is nothing commercial or economic about FGM,’ Friedman wrote in a 28-page opinion. (Female genital mutilation) [‘]is not part of a larger market and it has no demonstrated effect on interstate commerce. The Commerce Clause does not permit Congress to regulate a crime of this nature.””

In reality, in an effort to arrogate more and more power to themselves, the feds have over time unconstitutionally applied the Commerce Clause to an increasing number of areas. Yet it’s the states’ role to criminalize practices such as FGM, something Michigan did do last year.

Unfortunately, 23 states haven’t yet outlawed the practice, which means that Muslims in the U.S. can



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lawfully have this mutilation performed simply by traveling a bit.

As for Friedman's ruling, he did leave intact conspiracy and obstruction charges that could send Nagarwala and the other defendants to federal prison for decades, however.

None of this is to say Judge Friedman is a good jurist. He's the judge who [ruled against](#) Michigan's same-sex "marriage" ban in 2014, incorrectly applying the 14th Amendment's Equal Protection Clause. As with too many today, he clearly doesn't understand the relevant distinction: the clause guarantees equal protection to people, *not institutions* (in-depth explanation [here](#)).

Yet understanding of the Constitution is lacking in general. A good example is what Shelby Quast, a representative of the rights organization Equality Now, said regarding the FGM case. As the *Detroit News* related, "It's a giant step backward in the protection of women's and girls' rights," he complained. "Especially when there is a global movement to eliminate this practice."

While his cause is just here, he's exhibiting a tendency common when an activist's own ox is gored: behaving as if the end justifies the means.

Violating the Constitution to achieve even a noble end constitutes the most serious undermining of the rule of law because the Constitution is the supreme law of the land; this threatens all our rights and protections because the Constitution is their guarantor. Thus, it's silly to speak of the "protection of women's and girls' rights" if you undermine the very document that, over the long term, protects those rights.

As for wrongs, genital mutilation is a growing problem today — but not just because of Muslim immigrants. While activists will rightly inveigh against FGM, many of them will just as passionately defend the genital mutilation euphemistically known as "gender-reassignment surgery" (GRS). In fact, according to *Medical Daily* [writing](#) in 2015, a then-new Oregon law allowed "minors as young as 15 to get the surgery, even without consent from their parents." The kicker is that there's [as much of a scientific justification](#) for FGM as there is for GRS.

None.

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