



THE REPUBLIC

OF THE GAMBIA

**COMBINED REPORT ON THE AFRICAN CHARTER ON HUMAN AND  
PEOPLES' RIGHTS FOR THE PERIOD 1994 AND 2018.**

**AND**

**INITIAL REPORT UNDER THE PROTOCOL TO THE AFRICAN CHARTER ON  
THE RIGHTS OF WOMEN IN AFRICA**

**August 2018**

## **PREFACE**

The Republic of The Gambia is committed to the progressive realization of the rights and freedoms of all persons as well as the duties enshrined in the African Charter on Human and Peoples' Rights through the creation of appropriate policy, legislative, judicial, administrative and budgetary measures.

It is against this background that this Combined Periodic Report seeks to highlight the measures adopted in the implementation of the rights enshrined in the African Charter on Human and Peoples' Rights (ACHPR) since 1994, identify the progress made as well as the constraints encountered.

During the period under review (1994-2018), The Republic of The Gambia has had to contend with a very checkered history in the bid to fulfill its obligation to promote and protect human rights. Admittedly, numerous challenges had to be overcome in the effective realization of the promotion and protection of these rights.

The Ministry of Justice takes this opportunity to express its appreciation to the distinguished Commissioners of the African Commission on Human and People's Rights and hope that the distinguished experts will appreciate the progress made so far, the determinations being made to overcome the highlighted challenges and continue to support The Gambia's obligation to sustain the promotion and protection of human and peoples' rights in the overall interest of all Gambians.

The Government of The Gambia looks forward to the opportunity to engage in a constructive dialogue with the Commission on Human and Peoples' Rights on the implementation of the Charter.

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**August 2018**

## **LIST OF ABBREVIATIONS & ACRONYMS**

**AAITG-** Action Aid International The Gambia

**ACHPR-** African Charter on Human and Peoples' Rights

**ACSM-** Advocacy, Communication and Social Mobilization Strategy

**ADR-** Alternative Dispute Resolution

**ADRS-** Alternative Dispute Resolution Secretariat

**AGSP-** American Girls Scholarship Program

**AIDS-** Acquired Immune Deficiency Syndrome

**ANC-** Antenatal Clinic

**ANFE-** Adult and Non Formal Education

**APWGA-** Association for the Promotion of Women's and Girls Advancement

**ART-**Anti Retroviral Therapy

**ARV-** Antiretroviral

**BAFROW-** Foundation for Research on Women's Health, Productivity and the Environment

**BCC-** Behavioural Change Communication

**BCG-** Bacillus Calmette- Guerin Vaccine

**BEMONC-** Basic Emergency Obstetrics and Neonatal Care

**CAT-** Convention Against Torture

**CBOs-** (Community Based Organisations)

**CEDAW-** Convention on the Elimination of All Forms of Discrimination Against Women

**CEMONC-** Comprehensive Emergency Obstetrics and Neonatal Care

**CFSI-** Child Friendly School Initiative

**CHN-** Community Health Nurses

**CIA-** Central Intelligence Agency

**CPA-** Child Protection Alliance

**CPT-** Co-trimoxazole Preventative Therapy

**CRC-** Convention on the Rights of the Child

**CRR-** Central River Region

**CSIP-** Community Skills Improvement Project

**CSOs-** Civil Society Organisations

**DHS-** Demographic Health Survey

**DOT-** Direct Observation of Treatment

**DSW-** Department of Social Welfare

**ECD-** Early Childhood Development

**ECOMOG-** Economic Community of West African States Monitoring Group

**ECOWAS-** The Economic Community of West African States

**EFA Net-** Education for All Network

**EFA-** Education For All

**EIA-** Environmental Impact Assessment

**EID-** Early Infant Diagnosis

**EMIS-** Education Management Information System

**eMTCT-** Elimination of Mother to Child Transmission

**ESSP-** Education Sector Strategic Plan

**FAWEGAM-** Forum for African Women Educationalists, Gambia

**FGM-** Female Genital Mutilation

**FIOH-** Future in our Hands

**FLAG-** Female Lawyers Association of The Gambia

**FTI-** Fast Track Initiative

**GAF-** Gambia Armed Forces

**GAMCOTRAP –** Gambia Committee on Traditional Practices Affecting Health of Women & Children

**GAMNASS-** Gambia National Association of AIDS Support Societies

**GBoS-** Gambia Bureau of Statistics

**GBV-** Gender Based Violence

**GCR-** Gambia Commission for Refugees

**GDHS-** The Gambia Demographic and Health Survey

**GDP-** Gross Domestic Products

**GF-** Global Fund

**GFPA-** Gambia Family Planning Association

**GNAP-** Gambia National Action Plan

**GPE-** Global Partnership For Education

**GRB-** Gender Responsive Budgeting

**GRCS-** Gambia Red Cross Society

**GTU-** Gambia Teachers Union

**HCT-** HIV Counselling and Testing

**HIV/AIDS-** Human Immunodeficiency Syndrome/ Acquired Immunodeficiency Syndrome

**HMI-** Health Management Information System

**HMIS-** Health Multiple Indicator Survey

**HSS-** Health System Strengthening

**HTTI-** Health Technician Training Institute

**ICPD-** International Conference on Population and Development

**IDA-** Iron Deficiency Agency

**IEC-** Independent Electoral Commission

**IHRDA-** Institute for Human Rights and Development in Africa

**ILO-** International Labour Organisation

**IOM-** International Organization for Migration

**KMC** – Kanifing Municipal Council

**LAHS**- Lend A Hand Society

**LBE** - Lower Basic Education

**LBW**- Low Birth Weight

**LEG**- Local Education Group

**LRR**- Lower River Region

**MDGs**- Millennium Development Goals

**MDI**- Management Development Institute

**MDR-TB** – Multi Drug Resistant- Tuberculosis

**MICS**- Multiple Indicator Cluster Survey

**MMR**- Maternal Mortality Ratio

**MNCH**- Maternal New Born and Child Health

**MoBSE** - Ministry of Basic and Secondary Education

**MOFEA**- Ministry of Finance Economic Affairs

**MOHERST**- Ministry of Higher Education, Research, Science and Technology

**MoHSW**- Ministry of Health and Social Welfare

**MOU**- Memorandum of Understanding

**NAATIP**- National Agency Against Trafficking In Persons

**NAGA**- Nova Scotia Gambia Association

**NALA**- National Agency for Legal Aid

**NANA**- National Nutrition Agency

**NAS**- National Aids Secretariat

**NAWFA**- National Women's Farmers Association

**NBR**- North Bank Region

**NCAC**- National Centre for Arts and Culture

**NCCE-** National Centre for Civic Education

**NCD-** Non Communicable Diseases

**NDP-** National Development Plan

**NEA-** National Environment Agency

**NFP-** Non Formal Education

**NGBV-** The Network Against Gender Based Violence

**NGO-** Non Governmental Organization

**NHPF-** National Health Policy Framework

**NHS-** National Health Survey

**NIA-** National Intelligence Agency

**NMR-** Neonatal Mortality Rate

**NPAGW-** National Policy for Advancement of Gambian Women

**NPOA-** National Plan of Action

**NSP-** National Strategic Plan

**NSPP-** National Social Protection Policy

**NSPSC-** National Social Protection Steering Committee

**PAGE-** Programme for Accelerated Growth and Employment

**PEGEP-** President Empowerment of Girls Education Project

**PEP-** Post Exposure Prophylaxis

**PHC-** Primary Health Care

**PHC-** Primary Health Care

**PIQSS-** Programme for Improved Standards in Schools

**PLHIV-** People Living with Human Immunodeficiency Syndrome

**PMTCT-** Prevention of Mother to Child Transmission

**POA-** Public Order Act

**POP-** Persistent Organic Pollutants

**PR-** Principal Recipient

**Pro-PAG-** Pro-Poor Advocacy Group

**PRSP II-** Poverty Reduction Strategy Program

**PTAs -** Parent Teacher Associations

**PURA-** Public Utilities Regulatory Authority

**PWD-** Persons with Disabilities

**RCH-** Reproductive and Child Health

**RIFT-** Remedial Instruction for Female Teachers

**RMNCH-** Reproductive Maternal New-born and Child Health

**RDT-** Rapid Diagnostic Test

**SDA-** Service Delivery Areas

**SDGs-** Sustainable Development Goals

**SEN-** State Enrolled Nurses

**SIG-** School Improvement Grant

**SMC-** School Management Committee

**SPF-** Social Protection Fund

**SRT-** Sexual and Reproductive Health

**SSE-** Senior Secondary Education

**STI-** Sexually Transmitted Infection

**TANGO-** The Association of Non- Governmental Organizations

**TARUD-** The Trust Agency for Rural Development

**TB-** Tuberculosis

**TRRC-** Truth Reconciliation and Reparations Commission

**TVET-** Technical and Vocational Education and Training



**UBE-** Upper Basic Education

**UDP-** United Democratic Party

**UNESCO-** United Nations Educational Scientific and Cultural Organization

**UNFPA** –United Nations Population Fund

**UNGEI-Gambia-** United Nations Girls Education Initiative- Gambia

**UNICEF-** The United Nations Children's Fund

**UNMID-** United Nations Mission in Darfur

**UNOCD-** United Nations Office for Drugs and Crimes

**UNSCR 1325-** United Nations Security Council Resolution 1325

**USTIP-** United States Trafficking in Persons Report

**UTG-** University of The Gambia

**VSO-** Voluntary Services Overseas

**WAPBAN-** West African Peace Building Network

**WHO-** World Health Organisation

**WISDOM-** Women in Service and Development

## **LIST OF LEGISLATION**

Anti- Littering Act 2007

Children's Act 2005

Council Act 1980

District Tribunal Act (Revised Laws 2009)

Domestic Violence Act 2013

Food Act 2005

Forest Act (Revised Laws 2009)

Injuries compensation Act (Revised Laws 2009)

Labour Act 2007

Lands acquisition and compensation Act 1991

Lands Regional Act 1957

National environment Management Act 1994

Pension's Act (Revised Laws 2009)

Prison's Act (Revised Laws 2009)

Public Health Act 1990

Registry of Deeds Act (Revised Laws 2009)

Registration of Deeds Act (Revised Laws 2009)

Rent Tribunal Act (Revised Laws 3009)

Review of pension Act 1950

Sexual Offences Act 2013

Social Security and Housing Finance Act (Revised Laws 2009)

States Lands Act 1991

The Women's Act 2010

Tourism Offences Act 2003

Trafficking in Person Act 2007

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## BACKGROUND AND GENERAL INFORMATION

The Republic of The Gambia presents this Periodic Report in line with Article 62 of the African Charter on Human and People`s Rights and in compliance with the reporting guidelines contained in Sheet Number Five issued by this esteemed Commission. This report was prepared by the Government in close cooperation with some Non-Governmental Organizations and civil society Organisations operating in The Gambia.

This is the 2<sup>nd</sup> Combined Periodic Reports submitted by The Gambia to the African Commission on Human and People` Rights and it seeks to highlights the developments, progress and challenges in the implementation of the Charter during the reporting period of 1994 to 2018.

This report has two parts namely:

- **Part A** ---- The Report on the implementation of the African Charter on Human and Peoples` Rights
- **Part B** ---- The Report on the Protocol to the African Charter on the Rights and Welfare of Women in Africa (the Maputo Protocol).



## **PART A: THE REPORT ON THE IMPLEMENTATION OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS**

### **I. Preparatory Process**

For the preparation of this report, the Government established a multi stakeholder task force comprising of the Ministry of Justice, Ministry of Finance & Economic Affairs, Ministry of Foreign Affairs, Ministry of Lands & Regional Administration, Ministry of Agriculture, Ministry of Trade, Industry, Employment & Regional Integration, Ministry of Defence, Ministry of Basic & Secondary Education, the Judiciary, Ministry of Interior, Ministry of Higher Education, Science & Technology, Ministry of Health & Social Welfare, Women's Bureau, the National Assembly as well as the participation of Non-Governmental Organizations, International Organizations based in The Gambia. Under the guidance and supervision of the Ministry of Justice, a drafting team undertook the task of preparing the report after conducting extensive consultations with stakeholders in relevant Ministries and Institutions to obtain information on the progress made in the implementation of the Charter since the last report in 1992.

A two day consultative workshop was organised in May 2018 in collaboration with the Centre for Human Rights, University of Pretoria, where participants drawn from Government Ministries, Institutions, Civil Societies Organisations (CSOs) and other partners provided comments and inputs on the first draft.

A validation workshop was held on Wednesday the 1<sup>st</sup> of August 2018, wherein the second draft report was presented again to participants from both Government and CSOs for consideration. Their contributions, suggestions and recommendations made therein, were taken into account in developing the final report for submission to the African Commission.

This report therefore constitutes a consolidated report of The Gambia's twelve (12) outstanding Periodic Reports for the periods 1994- 2018 on the measures taken by the Government of The Gambia towards the realisation of the promotion and protection of Human and Peoples' Rights in the country.

## **II. GENERAL INFORMATION**

### **a. GEOGRAPHY**

The Republic of The Gambia lies on the western coast of tropical Africa, occupying an area of 11,295 sq km (land: 10,000 sq km and water: 1,295 sq km), making it the smallest country in mainland Africa. It is a semi-enclave in Senegal. From north to south, The Gambia extends to a maximum of 48km, though the coastline, with its bays and promontories, is 80km in length. Moving inland from west to east, the country roughly follows the route of the River Gambia inland for 480km.

### **b. POPULATION**

The island capital city of Banjul has a population of about 31,301 excluding its suburbs (2013 Population and Housing census), but is exceeded in size by both Brikama 699,704 (2013 Population and Housing Census) and Kanifing (382,096 inhabitants (2013 Population and Housing Census). The country is divided into seven administrative areas consisting of five regions, the City of Banjul and Kanifing Municipality. The five regions are the West Coast Region, Lower River Region, Central River Region, Upper River Region and the North Bank Region. The population of The Gambia stands at 1,882,450 according to The Gambia Bureau of Statistics 2013 Population and Housing Census.

### **c. LANGUAGES**

English is the official national language of The Gambia. However, a wide variety of ethnic groups live in The Gambia namely, Mandinka, Wolof, Fula, Jola, Sarahule, Serere, Manjago and Creole (krio), each preserving its own language and traditions. The Mandinka people form the largest group, followed by the Fula, Wolof, Jola and Serahule.

### **d. RELIGION**

Muslims constitute 95% of the population. Christians and traditionalist account for the remainder. Gambians officially observe the holidays of both religions and there is a high degree of religious tolerance.

### **e. ECONOMY**

After 22 years of autocratic rule, the new Government has inherited a dire economic and social situation and faces a daunting task of rebuilding the economy. Despite the efforts to fight poverty over the years,

poverty levels remain quite high (the percentage of households living below the poverty line of \$US1.25 /day was 48.4 per cent in 2010 and 48.65 per cent in 2015). The average GDP growth of 3 per cent per annum has barely kept up with population growth of 3.1 per cent.

The Government is committed to economic reforms and the historic transition to democracy opens up many possibilities that could spur growth and restore the country's economic stability.

### **III. CONSTITUTIONAL, POLITICAL AND LEGAL STRUCTURE**

#### **a. Constitutional**

The Gambia became independent on the 18<sup>th</sup> February 1965 and immediately embraced multi-party democracy until the military coup of July 1994 ended the democratically elected Government of Sir Dawda Kairaba Jawara. After a two-year military rule, The Gambia returned to civilian rule in 1996 and a new Constitution (the 1997 Constitution) was promulgated, which came into force on the 12<sup>th</sup> of January 1997. The Constitution provides for participatory democracy, separation of powers, judicial independence and fundamental human rights.

The Gambia has a unicameral legislature with the National Assembly (Parliament) consisting of 58 members, 53 elected by universal suffrage, and 5 nominated by the President, for a five-year term.

Section 7 of The Gambian Constitution stipulates The Gambia's laws to include Acts of the National Assembly and subsidiary legislation made under said Acts, decrees passed by the Armed Forces Provisional Ruling Council, the common law and principles of equity, Customary law so far as concerns members of the communities to which it applies, the Sharia as regards matters of marriage, divorce and inheritance among members of the communities to which it applies.

#### **b. Political**

The Gambia gained independence in 1965. In 1994 there was a coup d'état and Lieutenant Jammeh took over power and ruled as a military leader for two years before transitioning to civilian rule in 1996. He continued to rule for 22 years until December 1<sup>st</sup> 2016 when he lost the Presidential elections. He initially

conceded the elections but later changed his mind, triggering a political impasse, followed by mediation by the Economic Community of West African States (ECOWAS) and the deployment of a military force to The Gambia to ensure that he leaves power peacefully. President Adama Barrow took over from Yahya Jammeh on the 19<sup>th</sup> of January 2017.

Since the present Government took office in January 2017, it has committed itself to the full realisation of the fundamental human rights of all persons in The Gambia. To this end, the Government is undertaking key constitutional and legal reforms to consolidate the democratic gains made by The Gambia.

### **c. Legal**

The Gambian legal system is modeled on the English Legal system as it incorporates the Common Law, doctrines of equity and statute of General Application. In The Gambia, the Sharia is applicable to over 95% of the population as personal law in matters like marriage, divorce and inheritance. Therefore, Gambian Law and the Sharia are administered contemporaneously.

## **PART IV: GENERAL MEASURES TAKEN BY THE GAMBIA SINCE THE LAST REPORTING PERIOD**

### **CHAPTER ONE: CIVIL & POLITICAL RIGHTS**

#### **ARTICLE 1**

“The Member States of the Organisation of African Unity, parties to the present Charter shall recognise the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them”.

#### **i. Legislative measures**

The Republic of The Gambia recognizes the rights enshrined in the African Charter on Human and Peoples' Rights (ACHPR). These rights are also enshrined in Chapter 4 of the 1997 Constitution, which provides for a Bill of Rights. The Gambia is also a party to various international and regional human rights treaties.

The new Government of The Gambia has resolved to improve the country's human resources capacity, its constitutional, legal and institutional framework as well as the quality of its strategies, policies and programs

in various governance areas in order to consolidate democracy and align the entire governance architecture with international justice and human rights standards. In that regard, the priorities of the Government are two-fold:

- (i) dealing properly with past human rights violations and abuses, and
- (ii) putting in place a new and resilient architecture to uphold the highest standards of respect for human rights, the rule of law, and justice, within the framework of a transitional justice process.

Even though the Charter as a whole has not yet been domesticated into Gambian law, various parts of the Charter have been enacted into statutory law in order to give effect to these provisions. These include:

1. The Children`s Act 2005;
2. The Women`s Act 2010;
3. The Refugees Act 2008;
4. Trafficking in Persons Act 2007;
5. The Sexual Offences Act 2013;
6. Domestic Violence Act 2013;
7. National Human Rights Commission Act 2017;
8. Truth Reconciliation and Reparation Commission Act 2017;
9. Constitutional Review Commission Act 2017;
10. Tourism Offences Act 2008;
11. National Agency for Legal Aid Act 2008;
12. Alternative Dispute Resolution Secretariat Act 2005;
13. Labour Act of 2007;
14. The Ombudsman Act 1997;
15. The Elections Act 2001; and
16. Information and Communications Act 2009;

## **ARTICLES 2 AND 3: PROHIBITION OF DISCRIMINATION AND THE RIGHT TO EQUALITY**

### **Legal and policy measures**

The right to freedom from discrimination and right to equality is protected in the 1997 Constitution. The Constitution prohibits discrimination. Chapter IV guarantees the fundamental rights and freedoms of every

individual, whatever his or her race, colour, gender, language, religion, political or other origin, national or social origin, property, birth or other status.

Section 33 of the Constitution of The Gambia provides that all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law. The Government has taken numerous measures to promote non-discrimination and equal treatment for all inclusive of vulnerable persons; including persons with disabilities, women, and children.

Further, Section 37 of the Constitution provides for the enforcement of its fundamental human rights provisions through the high court, which may hear and determine any application made and may make such orders, issue such writs, and give such directions as it may consider appropriate for enforcing or securing the enforcement of any of the fundamental human rights provisions.

Additionally, the Children's Act of 2005 provides for the protection of the rights and freedoms of children without any distinction based on gender.

Further, the Women's Act of 2010 which domesticates the CEDAW and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa also protects the rights of women.

#### **I. Persons with Disabilities (PWDS)**

Section 31 of the Constitution provides that "the right of the disabled to respect and human dignity shall be recognized by the State and society." It provides further that "disabled persons shall be entitled to protection against exploitation and to protection against discrimination, in particular as regards access to health services, education and employment" and "in any judicial proceedings in which a disabled person is a party, the procedure shall take his or her condition into account."

#### **Constraints**

In The Gambia, people living with disabilities face numerous challenges and artificial barriers. Their inherent rights are yet to be fully respected, promoted and protected. They still face challenges in terms of equal opportunities for scholarships and training; including provision of relevant facilities and equipment as well as in employment.

Persons with physical disabilities also face challenges in accessing public buildings as ramps, elevators and escalators are unavailable in most of these public facilities; thereby causing adverse restrictions to the freedom of movements of persons with disabilities.

In terms of access to education and information at work places, blind and visually impaired persons lack accessible facilities such as information braille systems, audio tape recorders, large print etc. to enable the blind or visually impaired work efficiently and effectively.

In terms of general access to information, there are no sign language interpreters at work places and on Television during news broadcasts.

Persons with disability continue to face transportation challenges as they complain that commercial drivers are often unwilling to carry them, especially wheelchair users because of the added burden of assisting them on board vehicles.

The Government ratified the UN Convention on the Rights of Persons with Disabilities and its optional protocol on the 1<sup>st</sup> July 2013; in expression of its political will to promote and protect the rights of persons with disabilities. There is also a draft Disability Bill which seeks to domesticate the Convention. The bill makes provision for equality and non-discrimination of disabled persons, special protection for children with disabilities, accessibility for the disabled persons, freedom from cruel, inhuman or degrading treatment or punishment for persons with disability, freedom from exploitation, violence and abuse, adequate standard of living and social protection as well as the need for participation in political and public life, amongst others.

The Department of Social Welfare (DSW) has devised a mechanism for addressing some of the concerns of PWDs, in collaboration with The Gambia Federation of the Disabled – Disability Employment Services. The DSW has drafted a Plan of Action which is currently under review. This Plan of Action is aimed at implementing priority activities during the African Decade of Persons with Disabilities (2010-2019). It has established a Disability Plan of Action and engaged in Media Campaigns to promote the rights of persons with disability (community radio programmes, television talk shows and newspaper articles). Furthermore, it has produced a documentary on PWDs in active and productive ventures for advocacy purposes.

## **II. Measures taken to deal with harmful cultural practices against women and children**

The Gambia has ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol) and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. The provisions of these instruments have been domesticated through the Women Act, 2010, including the prohibition of child marriage.

The Constitution of The Gambia, also makes provision for the promotion of women's rights. Section 28 provides that Women shall be accorded full and equal dignity. In addition, women have the right to equal treatment, including equal opportunities in political, economic and social activities.

The Domestic Violence Act 2013 and Sexual Offences Act, 2013 are also fundamental in addressing violence against women and girls.

**a. Female genital mutilation (FGM)**

A National Plan of Action to Accelerate the Abandonment of FGM/C 2012 - 2017 has been formulated and it is in the process of being revised. The purpose of the National Plan of Action is to serve as a tool in addressing gender inequality, reproductive rights and protecting the rights of women and the girl child, so as to promote an enabling socio-cultural environment that is conducive to male participation and the Elimination of harmful practices

UNFPA and UNICEF have been supportive in both financing public awareness programmes and sensitization of communities. The Community Empowerment Programme is based on certain experiences in Senegal and elsewhere, where basic education programme complemented by 'organized diffusion' in the communities, eventually led to the abandonment of FGM/C in various communities. So far in 900 communities in four regions, 128 circumcisers have abandoned FGM between 2007 and 2013.

Furthermore, the Government has created an enabling environment, for Civil Society Organizations working with and objective of protection of women's rights and ending Female Genital Mutilation in The Gambia. Civil Society Organizations such as The Foundation for Research on Women's Health, Productivity and the Environment (BAFROW), The Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP) and the Association for the Promotion of Women and Girls Advancement (APGWA) champion the fight against FGM/C with appreciable results.

In 2015, The Gambia amended the Women's Act of 2010 (as amended) to prohibit the practice of FGM in compliance with the Maputo Protocol and other international obligation to prohibit the practice of Female



Genital Mutilation in particular Article 5 of the African Union Protocol. The law also seeks to give effect to the constitutional right of women and children not to be subjected to practices that are harmful to their health and wellbeing.

The amendment which can be found in Section 32B provides that -

- (1) "A person who requests, incites or promotes female circumcision commits an offence and is liable on conviction to imprisonment for a term of three years or a fine of fifty thousand dalasi or to both.
- (2) A person who knows that female circumcision is about to be perpetrated and fails to report this to the proper authorities promptly, commits an offence and is liable on conviction to a fine of Ten Thousand Dalasis".

A number of capacity building programs for judicial officials and law enforcement agents have been carried out to enhance understanding of the law.

#### **b. Child Marriage & Betrothal**

The Government of The Gambia has in 2016 amended the Children's Act of 2005 prohibiting the offences of Child Marriage and child betrothal. Prior to its prohibition, The Gambia faced a challenged of girls entering into marriage at the ages of 15 and 16 years and despite a widespread advocacy and sensitisation activities involving various members of society, the practice continued to exist. Section 2 of the Children's (Amendment) Act 2016 now provides:

*'Child marriage means marriage contracted between a child and an adult or a child and a child'*

Section 24 further provides:

*'a child shall not be capable of contracting a valid marriage and child marriage is prohibited. A parent, guardian or any other adult who wilfully contracts, causes or forces a child to contract a marriage commits an offence and is liable on conviction to imprisonment not exceeding Twenty Years (20).*

#### **c. Employment of Children**

In respect to the employment of children both the Labour Act and Children Act 2007, prohibit the employment of children in hazardous activities, and from being subjected to activities that would amount to

economic exploitation or exploitative labour. Exploitative labour is defined by the labour Act, as labour that deprives the child of his or her health, education or development.

Children below the age of 16 years are allowed to engage in light work, which is defined by the Labour Act as work which "is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or capacity of the child to benefit from school work." However, children are forbidden to work between the hours of 8 a.m. to 6 p.m.

### **III Refugees and Asylum Seekers**

In July, 2013, the Government signed and ratified the United Nations Convention on the Status of Stateless Persons 1954 and 1961, and United Nations Convention on the Reduction of statelessness, 1961. The Gambia has also domesticated the provisions of the Convention relating to the status of Refugees, in the Refugees Act, 2008.

The Gambia Commission for Refugee (GCR) which is responsible for the security and protection of refugees in The Gambia has been in existence since 2008. In its bid to provide a good protection environment to refugees, the Commission issues visitors pass (*laissez passer*), refugee ID cards and conventional travel documents to refugees which enables them to move freely within the ECOWAS member states.

In realization of the precarious situation of refugees and being mindful of its commitments under the relevant international instruments and domestic legislations the Government continues to invest in refugee management issues with a view to providing them with minimum standards of protection. The financial resource allocation for The Gambia Commission of Refugees was increased from D 621,285 in 2010 to D 1,126,053 in 2014.

Refugees are provided equal treatment in terms of cost of treatment in all Government hospitals and health facilities as stipulated Articles 12 - 30 of the Refugee Convention, which set out the rights and obligation of the receiving state and that of the refugees

In collaboration with refugee host communities, the Government has been helping refugees to locally integrate in The Gambia by providing them with land to both build their homes and to farm on.

Furthermore, the United Nations High Commission for Refugees facilitates the local integration of refugees through various livelihood support mechanisms.

#### **ARTICLE 4: RIGHT TO LIFE AND INTEGRITY OF PERSONS**

**“Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right”.**

##### **Constitutional and Judicial Measures**

Section 18 of the Constitution guarantees the right to life. However, the Constitution permits the imposition of the death sentence by a competent for a criminal offence punishable by the death penalty. The Constitution further limits the imposition of the death penalty as a punishment to offences involving violence or administration of any toxic substance resulting in the death of another person. In addition to this, Section 18 (4) further permits the loss of life in reasonable and justifiable circumstances where life is lost as a result of use of force in the ‘defence of any person from unlawful violence or for the defence of property, in order to effect a lawful arrest or to prevent the escape of a person lawfully detained, for the purpose of suppressing a riot, insurrection or mutiny, in order to prevent the commission by that person a of criminal offence, or if he or she dies as a result of a lawful act of war.’

Furthermore, Gambian law provides procedural guarantees, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the provision of legal aid at the expense of the State, the minimum guarantees for the defence and the right to review by a higher tribunal prescribed must be observed before the death penalty can be applied. These rights are applicable in addition to the particular right to seek pardon.

Currently, there are twenty-three (23) prisoners sentenced to death, out of which twenty-one (21) were convicted for murder; one (1) for unlawfully causing death and one (1) for manslaughter.

It is worth noting that despite the fact that the death penalty remains on the statute books since 1995, the only executions took place in 2013 when nine death row prisoners were executed. Since then, the moratorium which existed prior to 2013 has been restored. In 2017, the President announced a moratorium and signed the second Optional Protocol to the International Covenant on Civil and Political Rights has been signed and ratified.

### **Addressing past human rights violations**

As soon as the current Government took office in January 2017, a Missing Persons Taskforce was constituted to receive and document reports of missing and disappeared persons. Furthermore, an investigation was launched into the brutal crackdown of a peaceful opposition protest march in April 2016, which led to the death in custody, of opposition Activist, Ebrima Solo Sandeng, resulting in the ongoing prosecution of nine former senior officials of the NIA for the death of Ebrima Solo Sandeng and the torture of other opposition members.

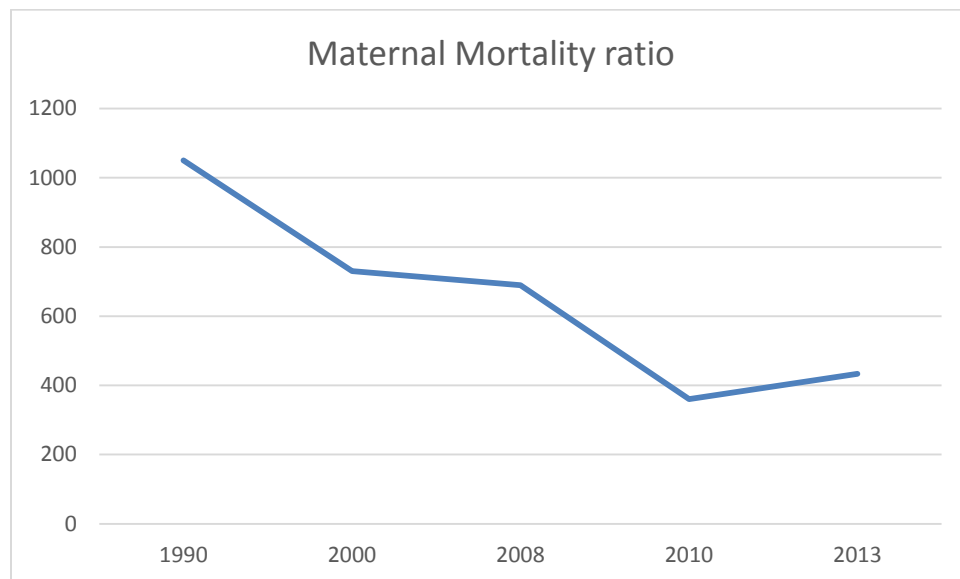
The Gambia Armed Forces and the Police have also constituted a joint investigations taskforce to investigate the activities of the former hit squad known as the 'Junglers'. Further to the above, taking into consideration the serious human rights violations that occurred during the Jammeh regime, as part of the transitional justice measures, the Government has established a Truth Reconciliation and Reparations Commission to investigate human rights violations and abuses committed during the past 22 years of former President Jammeh's authoritarian rule, to foster social cohesion and encourage national reconciliation among Gambians, to address impunity and also to recognize the rights and dignity of victims through the provision of appropriate Reparations. The Commission is mandated to investigate enforced disappearances, extrajudicial killings with the view to establishing the truth on what happened and provide reparations to victims.

In upholding the right to life, on the 18<sup>th</sup> June 2018 following a protest over sand mining in the village of Faraba Bantang which led to the death of three protestors, the Government set up a Commission of Inquiry to establish the circumstances leading to their death. The Commission commenced its sittings in July and it is expected to issue its report and recommendations within two months.

### **Infant and maternal mortality**

To address the relatively high rates of infant and maternal mortality, the Government has made maternal and antenatal health care free in all Government health centres. Primary and secondary health care has also significantly expanded, and increased immunization has reduced mortality rates. Great achievements have been registered in access to basic health care however Primary Health care has deteriorated substantially.

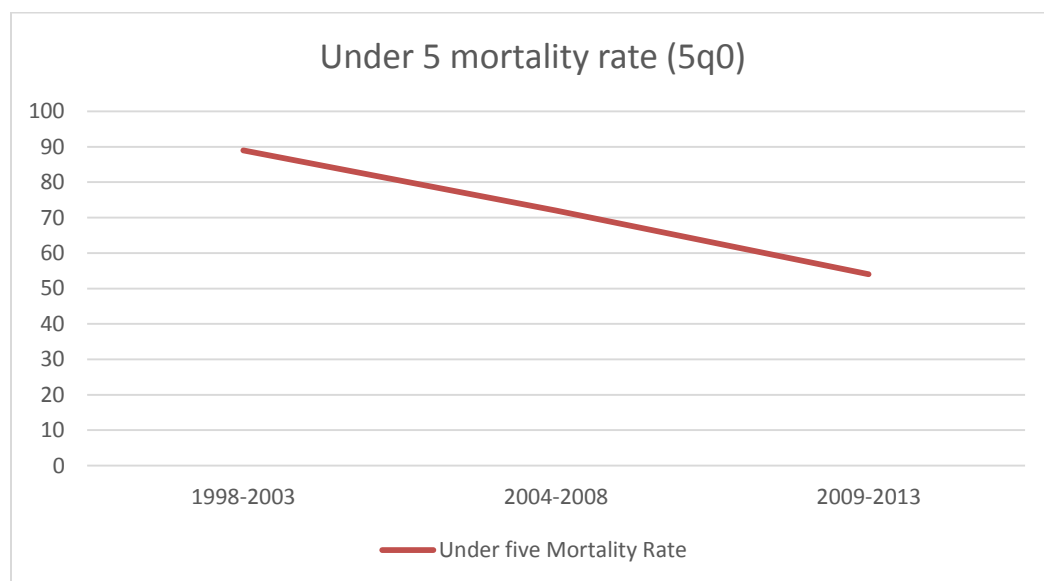
The formula below represents the mortality and causes of death data and the denominator is the total live births from the 2015 Mid-year population estimates.



*Table: Maternal Mortality ratio*

The number of women who died as a result of complications during pregnancy or childbearing decreased from 1050 per 100 000 in 1990 to 433 per 100 000 in 2013

The Sustainable Development Goals (SDGs) Baseline Report 2017 has targeted by 2030, to end preventable deaths of new-borns and children under 5 years of age. Current data shows the mortality rate at 54 per 1 000 live births.

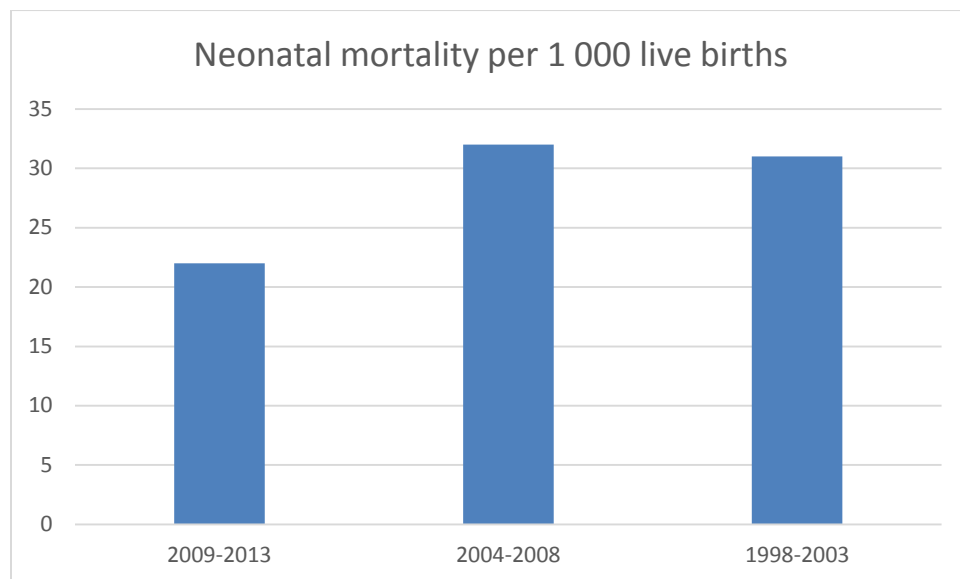


*Figure 5 mortality rate (5q0)*

The number of children who died before reaching their 5th birthday decreased from 89 per 1 000 live births to 54 per 1 000 live births in 2009-2013

#### Neonatal mortality rate (NMR)

Data available shows this to be 22 per 1,000 live births. The number is reached by dividing total live births and number of children who die during the first 28 days of life, multiplied by 1 000.



*Figure Neonatal mortality per 1 000 live births*

From the figures provided, in comparison with other countries in the sub-Saharan region, childhood mortality is relatively low in The Gambia. Under-5 mortality for the period 0-4 years before the 2013 GDHS survey, which corresponds approximately to the calendar years 2009-2013, is 54 deaths per 1,000 births.

Following the usual pattern, most of the early childhood mortality occurs in the first year of life; the infant mortality is 34 deaths per 1,000 births, while mortality between the first and the fifth birthday is 20 deaths per 1,000. As expected, neonatal mortality (mortality during the first month) is higher than post neonatal mortality (22 deaths per 1,000 compared with 12 deaths per 1,000), representing 65 per cent of the overall infant mortality.

Data from Registration of Birth and Death Unit shows that from the 2018 HMIS the infant mortality rate is 1.95% and the maternal mortality rate is 2.38%.

Notwithstanding the achievements made in the reduction of the infant and maternal mortality, several challenges continue to be faced such as the sufficient availability of health centres particularly in hard to reach areas along with health personnel.

#### **ARTICLE 5: RIGHT TO DIGNITY, PROHIBITION OF TORTURE AND SLAVERY**

**“Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited”**

Section 20 of the Constitution prohibits any form of slavery or forced labour. In line with Section 20, the Trafficking in Persons Act, 2007 was enacted, which established the National Agency against Trafficking in Persons (NAATIP) and makes it an offence for a person to engage in trafficking in persons, widely defined under Section 28 of the Act. The Labour Act, 2007 also prohibits forced labour.

The prohibition of torture, inhuman or degrading punishment or other treatment is enshrined in Section 21 of the Constitution. The Section provides that “No person shall be subjected to torture or inhuman or degrading treatment or punishment.” This right is absolute, in that even in situations of public emergency this provision is non-derogable. Even though the Constitutional prohibition of torture is not yet supported by the creation of a specific offence of torture under the country’s criminal law, the offences in the Criminal Code such as threatening violence, common assault, assault causing actual bodily harm, assault causing grievous bodily harm and laws and regulations such as the Judges Rules and the Evidence Act, 1994 have also been put in place to give effect to the prohibition of torture.

Earlier this year, the new Government also ratified the Convention for the Protection of Enforced Disappearances.

The Government has also taken practical steps in fulfilment of its obligation under the Charter by ensuring that perpetrators of torture are prosecuted under the Criminal Code. It has also established mechanisms to ensure that State security agents do not resort to torture and degrading and inhuman treatment as a tool for interrogation of suspects in custody.

The Gambia Police Force and Prisons Service have internal accountability mechanisms such as the adoption of a Code of Conduct and the establishment of the Police Human Rights and Complaints Unit.

The external accountability institutions include the Ombudsman, the Judiciary and a multi-sectorial Prison's Committee which is mandated to monitor the affairs of prisoners, promote and protect their rights and interests.

The Gambia Police Force Human Rights and Complaints Unit receives complaints of human rights abuses by its officials and currently receives on average four complaints per day. The police have reported one case of torture of a detainee and the two officials involved in the case have been demoted in rank one from a sergeant to a corporal and the other from a corporal to a first class officer.

To prevent acts of torture in places of torture and arbitrary detention, The Gambia Police Force, National Intelligence Agency and The Gambia Prisons Service in partnership with human rights organisations such as the Institute for Human Rights and Development in Africa and TANGO continue to train its officials and senior management on human rights best practices. The Prison Fellowship has also undertaken a nationwide visit to all its detention centres. The police force in collaboration with IHRDA has a human rights training manual. Women's Bureau has also developed a Gender Based Violence manual for the police.

The Government of The Gambia has made a commitment to criminalise torture. Accordingly, The Gambia has signed and ratified the **United Nation Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment** on the 4<sup>th</sup> July 2018 and finalising on its deposit. The criminal justice reform program undertaken by the Government specifically has the mandate to include torture as part of our criminal laws. The Ministry of Justice has been working in collaboration with the Convention against Torture Initiative (CTI) to provide training to Gambian law enforcement officers.

The Gambia has extended an invitation to human rights bodies of the UN and the African Commission on Human and Peoples Rights to visit prisons and detention centres in the country. Prior to 2017, the African Commission and the European Commission both requested to visit the various prisons around the country without any success. However, in 2017, a delegation from the African Commission on Human and Peoples' Rights visited the country and were given unlimited access to all the prisons and detention centres.

In 2017, the Special Rapporteur on Truth, Justice, Reconciliation and Non-Recurrence and the Working Group on Enforced Disappearance or Involuntary Disappearance both conducted a visit The Gambia and were granted access to all prisons and detention centres



In addition, in a bid to stop domestic violence, which is gender related torture, degrading and inhuman treatment, the State enacted the Domestic Violence Act in 2013 which criminalizes domestic violence. The Act also creates a Domestic Violence Support Fund to support the victims of domestic violence and it is in the process of being finalised. The purpose of this Support Fund is to inter alia ensure the provision of basic material support to victims of domestic violence, training victims and families and care support of victims of domestic violence and for the construction of shelters for victims of domestic violence in all regions in the country.

In addition to the above, the National Human Rights Commission Act 2017 has been enacted, which set up a National Human Rights Commission for the first time in The Gambia; with the broad mandate to promote and protect Human Rights in The Gambia.

### **Combating Human Trafficking**

In recognition of the fact that human trafficking is a form of slavery, the 2007 Trafficking in Persons Act created the National Agency against Trafficking in Persons (NATTIP). The Agency started operations on 1<sup>st</sup> December 2011 and has been engaging in country wide sensitisation programmes to enlighten the public on the dangers and legal consequences of trafficking in persons. It also organises capacity building workshops for both law enforcement officers and social workers in the areas of identification of trafficked victims, arrest procedures and protection of victims among its activities. NATTIP engages in the protection, rehabilitation and counselling of victims. It also investigates and prosecutes trafficking cases.

During the period in review, the Agency has investigated sixty cases, with prosecutions on-going in four cases.

The Agency's plan of Action 2012-2016 has been revised and now covers the period span 2016 2020 in line with ECOWAS trafficking in persons guidelines for member States. As a result, plans are underway to sign MOU's with Guinea Bissau, Ghana and Nigeria.

The Agency has also established partnerships with the International Organization for Migration (IOM), United Nations Office for Drugs and Crimes (UNDOC) and Senegalese National Authorities.

The implementation of the Trafficking in Persons Act, 2007, as amended in 2010, 2011, the Children's Act, 2005 and the Tourism Offenses Act, 2003 have had a great impact in combating trafficking in persons, particularly in the protection of children from sex trafficking. These Acts have codified the offences relating

to Trafficking in Persons. The Acts have also provided concrete guidelines and procedures to guide the identification and prosecution of perpetrators. Furthermore, it has provided actors involved in combating Trafficking in Person with the legal backing to conduct advocacy programs.

In spite of all the laws and policy framework put in place, NAATIP is yet to meet the required standard for the eliminating of trafficking due to inadequate funding, human and material resources to name a few. NAATIP is yet to fully implement the anti-trafficking national action plan, investigate and prosecuted its cases due to insufficient funding. Since 2017, the Agency has been ranked Tier 2<sup>1</sup> watch list as per the USTIP report, from a TIER 3 ranking since its creation.

The Gambia has signed and ratified the Palermo Protocol which is the Protocol to prevent, suppress and punish those involved in trafficking in person especially women and children. The Protocol supplements the UN Conventions against Transnational Organised Crime.

#### **ARTICLE 6: RIGHT TO LIBERTY AND PROTECTION FROM ARBITIARY ARREST**

**“Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained”.**

Section 19 of The Gambian Constitution guarantees “every person” the right to liberty and security of person. This means the right to personal liberty and security of person is applicable to all deprivations of liberty, whether in criminal cases or in other cases such as, mental illness and immigration control.

The Constitution prohibits arbitrary arrest or detention and no one is to be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law. The Constitution provides further that any person who is arrested or detained shall be informed as soon as is reasonably practicable and in any case within three hours, in a language that he or she understands, of the reasons for his or her arrest or detention and of his or her right to consult a legal practitioner. Persons who are arrested or detained for the purpose of bringing them before a court in execution of the order of a court

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<sup>1</sup> USTIP Report 2017

or upon reasonable suspicion of them having committed, or being about to commit a criminal offence must be taken to court within seventy-two hours (72) as required by the Constitution.

The Constitution also requires that a person brought before a court in execution of the order of a court shall not thereafter be further held in custody in connection with those proceedings or that offence save upon the order of a court. Persons arrested or detained who are not tried within a reasonable time must be released either unconditionally or upon certain conditions as are reasonably necessary to ensure that they appear at a later date for trial. Criminal cases are also to be dealt with within a reasonable time.

The Constitution further provides that any person who is unlawfully arrested or detained by any other person shall be entitled to compensation from that other person or from any other person or authority on whose behalf that other person was acting. The Constitution also directs the Judiciary to take into consideration the time spent in prison before conviction when setting jail terms for convicted persons. Section 187 of the Constitution enjoins the armed forces to observe and respect human rights and freedoms in the performance of their functions.

In spite of all the legislations stated supra, the enforcement of these rights has been a challenge during the reporting period. The former National Intelligence Agency (NIA) was notorious for arbitrary arrests and incommunicado detentions of both nationals and non- nationals.

With the advent of the New Gambia, the Government is working on regulating detention practices in line with international standards. The police conduct continuous trainings in partnership with civil society organisations such as TANGO and IHRDA on procedures of arrest and detention to combat the old practice.

The Gambia Police Force has improved its internal accountability mechanisms through the adoption of a Code of Conduct and the institution of a police complaint systems. The external accountability institutions include the Ombudsman, the Judiciary, the National Assembly, The Ministry of Justice, The National Agency for Legal Aid, Civil Society Organizations and the media.

## **Detention of Prisoners**

The Government has also taken a number of measures to respect the rights of persons in detention in prisons and to improve their living conditions. In a bid to decongest the Mile 2 Prison, the Judiciary in 2013 organized special hearing dates for prisoners in the remand wing. Their trials were conducted expeditiously and persons who had no sufficient evidence supporting their charges were acquitted and discharged, thereby fulfilling its obligation to ensure the liberty of persons.

In 2017, the Government stepped in to address prison overcrowding, the detention of political prisoners and other human rights violations occurring at the country's detention centres by embarking on the release of prisoners through Presidential pardons. Since then over 308 prisoners have been released leading to the decongestion of the prisons.

Furthermore, to address past human rights violations in prisons, the Prison Act is currently being reviewed with the view to bringing it in line with best practices and to transform from a punitive institution to a corrective one.

In a bid to ensure that prisoners' rights are respected, the Ministry of Interior in collaboration with the Prison Services Department has made tremendous efforts in the renovation of the security wing and increase the size of cells and cells allocation. The expansion program has been extended to Janjanbureh Prison which is in the Central River Region of the country. The renovations for the prison system will cost over D40 million upon completion. Over D6 Million has so far been spent on the renovation of Mile II and Janjanbureh Prisons and the renovations have now been completed. The building will now cater for more prisoners and to a greater extent address the problem of overcrowding.

In a bid to tackle the problem of overcrowding, in 2014, a massive construction project started at the Jeshwang Prison Camp, though the project is still to be completed because of insufficient funds. A monthly total food allowance for prisoners has also been increased to 1.5 Million Dalasis as compared to the previous prison service food provision of D650, 000.00 in 2010. The Prison Services Department endeavors that all prisoners are well-fed with a balanced diet. The food store has also been renovated to standard to avoid pests and contamination.

Furthermore, prisoners are treated in a dignified and humane manner from the time of admission to time of discharge. Prisoners are informed of the regulations governing their rights and obligations while in prison.

Torture of detainees and convicted prisoners is prohibited. A multi-sectoral prison`s committee is in existence and its function include and not limited to monitoring the affairs of prisoners, promote and protect their rights and interests.

The Prison Services Department has also taken practical steps to promote the reformation and social rehabilitation of prisoners. This is done through education and vocational training. In 2013 a furnished library for prisoners was built. The State Central Prison has a multi-purpose workshop, where prisoners are trained in different livelihood skills such as tailoring, carpentry and construction. The Department in collaboration with Insight Training Institute provided a certification skill training program in electrical installation which the first batch commenced in 2014 and conclude in 2016. The second batch is being trained at the moment. The other establishments, like Janjanbureh, Jeshwang and the Juvenile Wing also have facilities built for educational purposes. A qualified teacher is provided by the Ministry of Basic and Secondary Education to teach young persons detained at the juvenile wing at Jeshwang on a daily basis.

A qualified Doctor visits the prisons on a daily basis to provide medical services to sick inmates. A modern standard clinic was built in the State Central Prison and is currently in use. Well trained Community Health Nurses (CHN's), State Enrolled Nurses (SEN's) and Auxiliary nurses trained by the Government medical schools are also present to attend to inmates. Additionally, the Department received a new Ambulance from the Ministry for the transportation of ill inmates to hospital.

Prisoners also have access to their lawyers and visitors subject to the restrictions imposed by law. Diplomatic corps and Civil Society Organizations have access to prisons upon notification of prison authorities and in accordance with the rules and regulations regulating the same. Prisoners also have access to letters from relatives/ friends and some have a right to regular visits.

## **ARTICLE 7: RIGHT TO FAIR TRIAL**

- 1. Every Individual shall have the right to have his cause heard. This comprises:**
  - a) The right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;**
  - b) The right to be presumed innocent until proven guilty by a competent court or tribunal;**
  - c) The right to defence, including the right to be defended by counsel of his choice;**
  - d) The right to be tried within a reasonable time by an impartial court or tribunal.**

The Constitution of The Gambia guarantees access to justice for all persons in The Gambia. This includes access to all courts on all matters relating to the rights protected under the Constitution. Section 24 provides that in the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court.

Apart from the entrenched right to a fair hearing guaranteed by the Constitution, various other laws such as the Criminal Procedure Code and decisions of superior courts promote and protect the right to fair hearing.

### **I. National Agency for Legal Aid (NALA)**

To further promote access to justice the National Agency for Legal Aid (NALA) was established by an Act of the National Assembly. The Agency was officially launched on 30<sup>th</sup> September 2010. The primary objective of the legal aid scheme is to ensure the provision of legal aid services to the poor and vulnerable members of society who cannot afford the services of a lawyer. NALA provides legal advice as well as legal representation in the courts of law in criminal matters in court, police stations and prisons. In 2014, twenty-seven (27) cases were referred to the Agency for legal advice. In addition mobile legal aid clinics have been carried out in the regions, from January 2014 to date.

The table below contains information on the number of legal aid cases in all regions, which include cases of murder, armed robbery, rape, treason, arson, abduction and possession of prohibited drugs.

<b>Year</b>	<b>Cases in the Children`s court</b>	<b>Cases at the Superior courts</b>
<b>January to June 2018</b>	95	65
<b>2017</b>	80	78
<b>2016</b>	53	68
<b>2015</b>	54	53
<b>2014</b>	17	53
<b>2013</b>	15	112
<b>2012</b>	10	111
<b>2011</b>	30	72

The Agency has opened four legal aid centres in the regions. The Basse (the Upper River Region) and Farafenni (North Bank Region) centres which were previously established are materially equipped and sufficiently staffed. The West Coast Region and Central River Region centres are in the process of being established.

### **Challenges**

NALA faces budgetary, logistical and staffing challenges. In 2018 alone the Agency is handling a total of 160 cases in the five regions of The Gambia with a staffing of only five lawyers. These challenges are also among the causes of backlog of criminal cases in court.

The Agency has the mandate to handle civil cases but since its inception it is yet to handle any civil case.

### **II. Alternative Dispute Resolution Secretariat ( ADRS)**

The Alternative Dispute Resolution Secretariat (ADRS) which operates under the purview of the Ministry of Justice was also established to ensure access to justice. It has been operational for the past five years. The objective of the Secretariat is to implement a functioning Alternative Dispute Resolution scheme in The Gambia. Its main function is to settle civil disputes which include customary land and family disputes. It also has a mandate to train community mediators, carry out sensitisations and continuous radio and television outreach nationwide. The mechanisms employed by ADRS in dispute resolution are mediation, arbitration, negotiation and conciliation. Between the periods of June 2008 and June, 2014, a total number of 792 cases were registered, of which 577 cases were solved by ADRS.

Two ADRS pilot centres were opened in Farafenni and Basse. Both centres have registered success in both the number of cases registered and the services rendered. In 2011, Farafenni registered 40 complaints, most of which were concluded successfully. During the end of year, the Monitoring and Evaluation team met with the people that had utilized the ADR service or were brought to the centre as respondents. All of them expressed appreciation of services rendered to them by the state and in the way their cases were handled. The Basse centre registered 107 cases in 2011 and 2012.

ADRS also conducts training of community mediators, with a total of 30 Mediators trained in 2011. The services of some of the Mediators trained in Basse were utilized almost immediately after the completion of

their training. The ten mediators in Basse were selected from different areas, thus giving the ADRS staff wider coverage.

In a bid to reduce backlog of cases the Court-connected Alternative Dispute Resolution (ADR) is also introduced pursuant to Practice Direction No.1 of 2013 as part of practice and procedure for the High Court. The purpose of the court-connected ADR is to reduce the backlog of cases before a trial judge. In this regard litigants take control of the outcome of their cases. It is a confidential process and is without prejudice to the rights of litigants who subsequently opt to proceed to trial after exploring ADR. The court-connected ADR is under the purview of the Master of the High Court.

Below is a table containing information on the number of registered cases and cases resolved by the Secretariat in the different centres country wide up to 2015.

<b>REGIONAL OFFICE</b>	<b>NUMBER OF CASES REGISTERED</b>	<b>NUMBER OF CASES RESOLVED</b>
<b>BANJUL</b>	401	247
<b>BASSE</b>	261	235
<b>FARAFENNI</b>	130	95

**Below is the statistics of cases from 2015 to 2017**

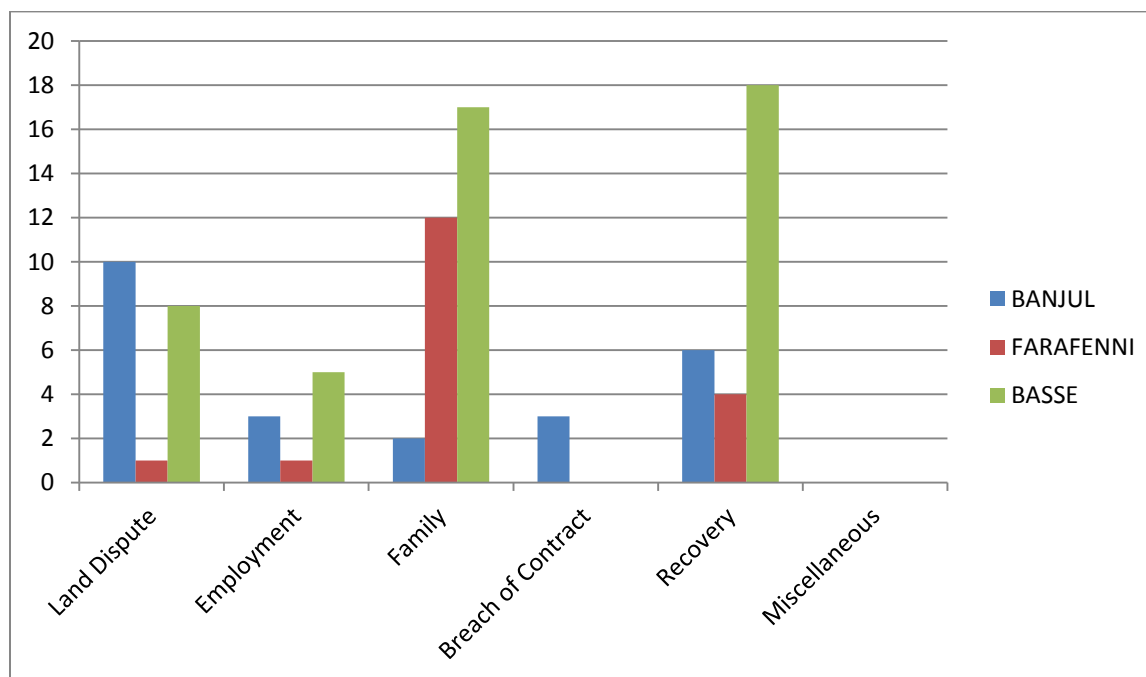
**A table showing the number of cases registered by the three offices in 2017**

<b>Nature</b>	<b>Banjul</b>	<b>Farafenni</b>	<b>Basse</b>	<b>Total</b>
<b>Land dispute</b>	<b>10</b>	<b>1</b>	<b>8</b>	<b>19</b>
<b>Employment</b>	<b>3</b>	<b>1</b>	<b>5</b>	<b>9</b>



<b>Family</b>	<b>2</b>	<b>12</b>	<b>17</b>	<b>31</b>
<b>Breach of contract</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>3</b>
<b>Recovery</b>	<b>6</b>	<b>4</b>	<b>18</b>	<b>28</b>
<b>Miscellaneous</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>24</b>	<b>18</b>	<b>48</b>	<b>90</b>

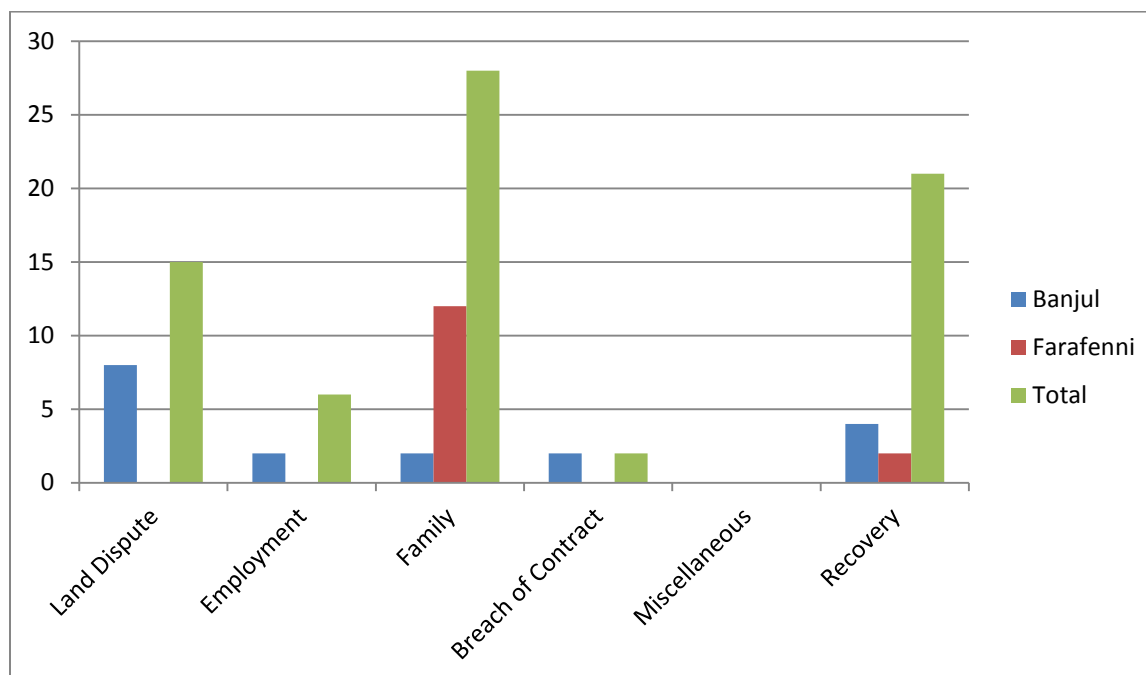
**A chart showing the number of cases registered by the three offices in 2017**



**A table showing the number of cases resolved by the three offices in 2017**

<b>Nature</b>	<b>Banjul</b>	<b>Farafenni</b>	<b>Basse</b>	<b>Total</b>
<b>Land Dispute</b>	<b>8</b>	<b>0</b>	<b>7</b>	<b>15</b>
<b>Employment</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>6</b>
<b>Family</b>	<b>2</b>	<b>12</b>	<b>14</b>	<b>28</b>
<b>Breach of Contract</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>
<b>Miscellaneous</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Recovery</b>	<b>4</b>	<b>2</b>	<b>15</b>	<b>21</b>
	<b>18</b>	<b>14</b>	<b>40</b>	<b>72</b>

**A chart showing the number of cases resolved by the Secretariat in 2017**

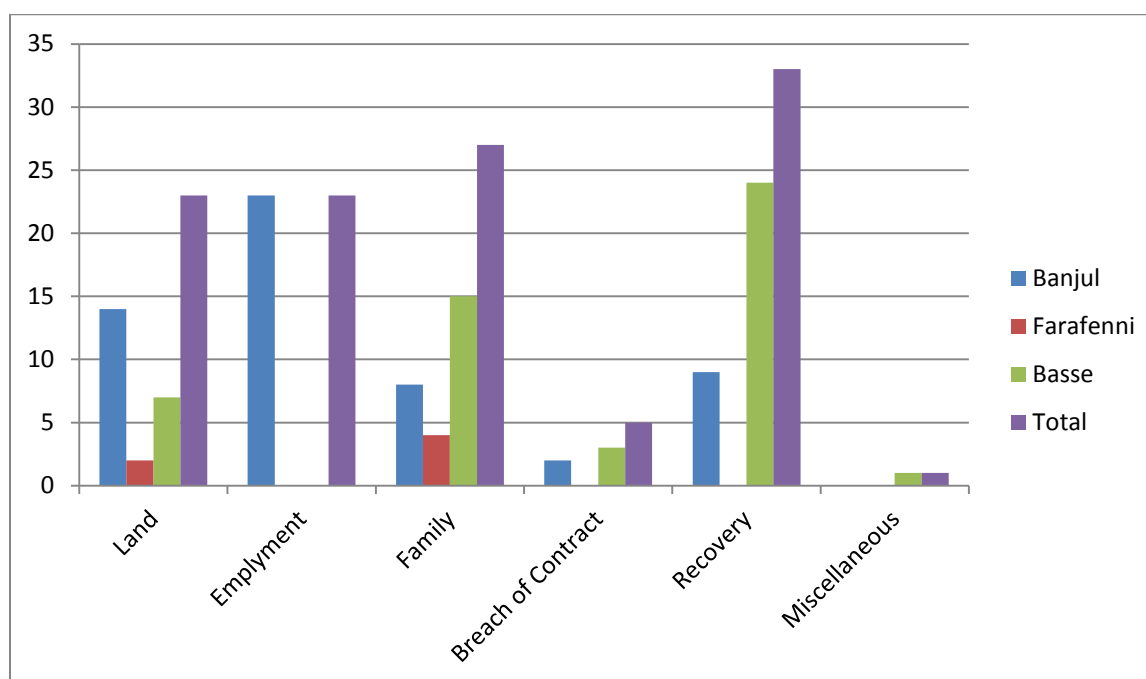


**Table showing the number of cases registered in the three offices in 2016**

Nature	Banjul	Farafenni	Basse	Total
Land	14	2	7	23
Employment	23	-	-	23
Family	8	4	15	27
Breach of Contract	2	-	3	5

<b>Recovery</b>	9	-	24	33
<b>Miscellaneous</b>	-	-	1	1
<b>Total</b>	56	6	50	112

A chart showing the number of cases registered in the three offices in 2016

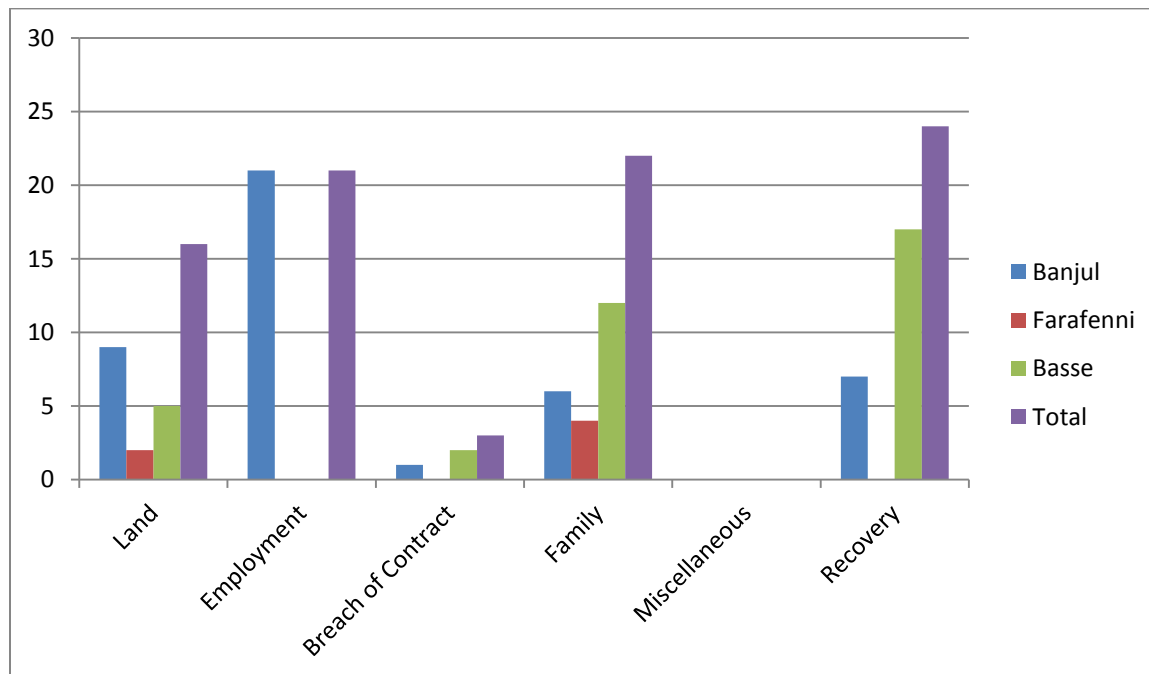


A table showing the number of cases resolved in all the three offices in 2016

Case	Banjul	Farafenni	Basse	Total
<b>Land</b>	9	2	5	16
<b>Employment</b>	21	0	0	21

<b>Breach of Contract</b>	1	0	2	3
<b>Family</b>	6	4	12	22
<b>Miscellaneous</b>	0	0	0	0
<b>Recovery</b>	7	0	17	24
	46	6	36	88

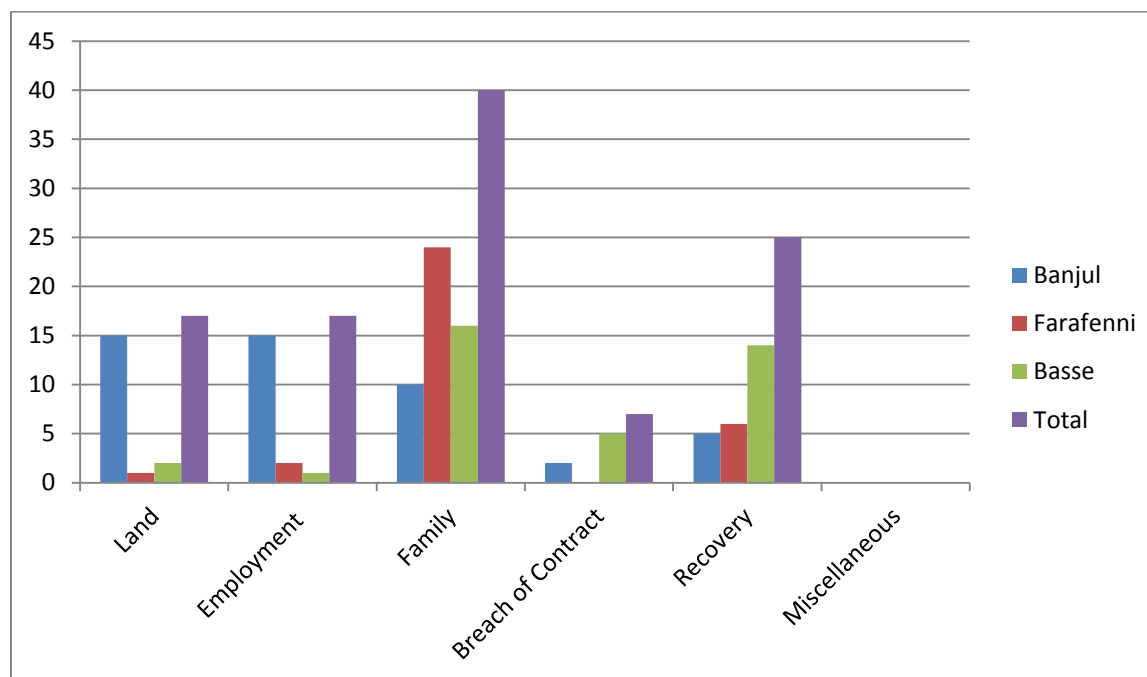
**A chart showing the number of cases resolved in the three offices in 2016**



**Table showing the number of cases registered in Banjul, Farafenni and Basse in 2015**

<b>Case</b>	<b>Banjul</b>	<b>Farafenni</b>	<b>Basse</b>	<b>Total</b>
<b>Land</b>	15	1	2	17
<b>Employment</b>	15	2	1	17
<b>Family</b>	10	24	16	34
<b>Breach of Contract</b>	2	0	5	7
<b>Recovery</b>	5	6	14	25
<b>Miscellaneous</b>	0	0	0	0
<b>Total</b>	47	33	38	101

**Chart showing the total number of cases registered in Banjul, Farafenni and Basse in 2015**

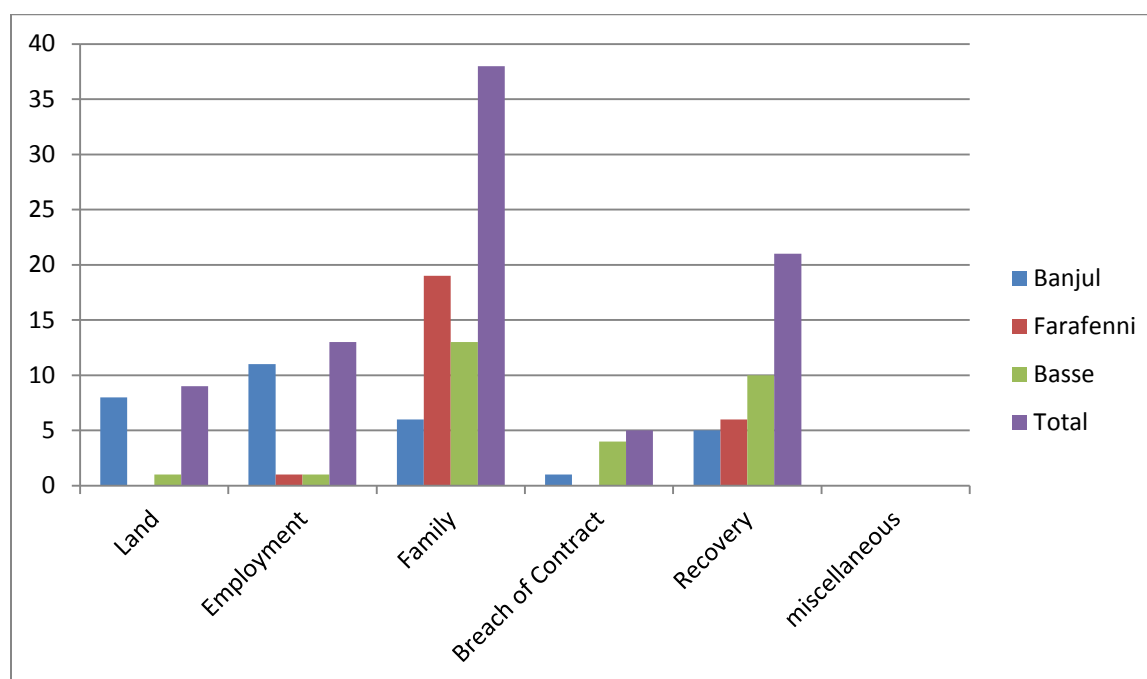


**A table showing the number of cases resolved in the three offices in 2015**

Case	Banjul	Farafenni	Basse	Total
Land	8	0	1	9
Employment	11	1	1	13
Family	6	19	13	38
Breach of Contract	1	0	4	5

<b>Recovery</b>	5	6	10	21
<b>Miscellaneous</b>	0	0	0	0
<b>Total</b>	31	26	29	86

**A Chart showing the number of cases resolved in the three offices 2015**



**A table showing the total number of cases registered in all three offices from 2008 to 2017**

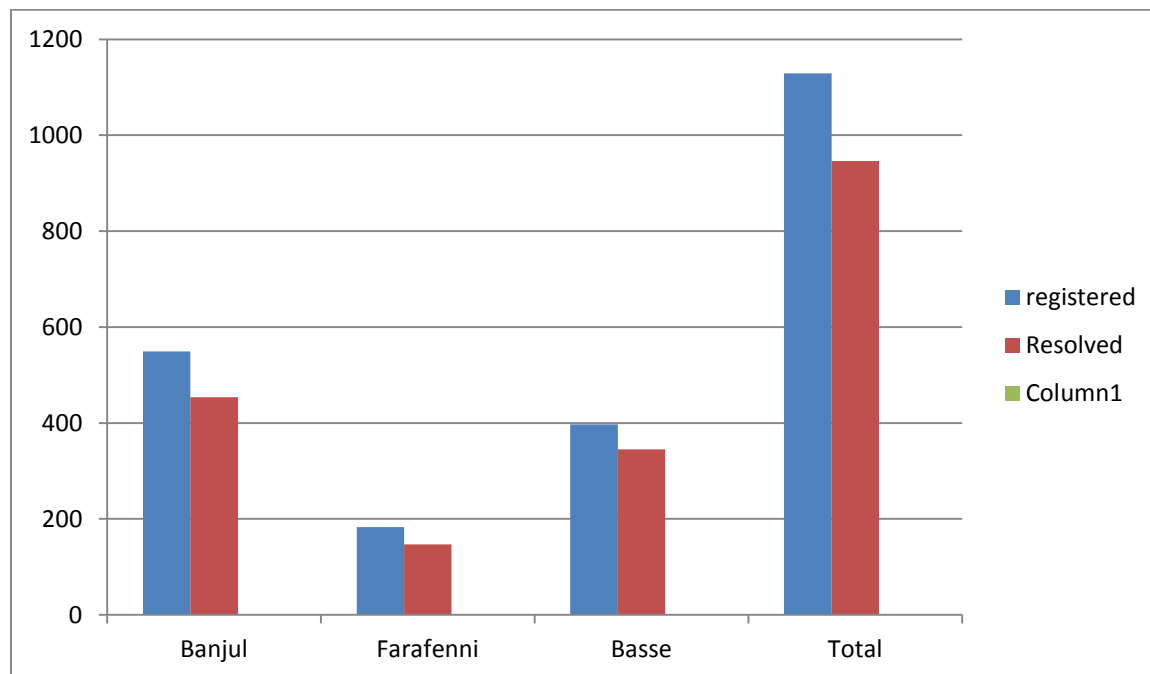
<b>Office</b>	<b>Registered</b>	<b>Resolved</b>
<b>Banjul</b>	<b>549</b>	<b>454</b>



<b>Farafenni</b>	<b>183</b>	<b>147</b>
<b>Basse</b>	<b>397</b>	<b>345</b>
<b>Total</b>	<b>1129</b>	<b>946</b>

**A table showing the total number of cases registered in all three offices from 2008 to 2017**

<b>Office</b>	<b>Registered</b>	<b>Resolved</b>
<b>Banjul</b>	<b>549</b>	<b>454</b>
<b>Farafenni</b>	<b>183</b>	<b>147</b>
<b>Basse</b>	<b>397</b>	<b>345</b>
<b>Total</b>	<b>1129</b>	<b>946</b>



In a bid to clear the backlog of criminal cases, the new Chief Justice has issued a Practice direction which requires that as opposed to the traditional subject matter divisions in the High Court, all High Court Judges shall hear criminal cases. Correspondingly, all State Counsel, including those working in the Civil Litigation and International Law Division of the Attorney General's Chambers, have also been assigned to handle criminal cases by the new Attorney General. The judiciary has also operationalized the decentralisation of the justice delivery system by opening High Courts in the Regions in order to improve access to judicial remedies. Furthermore, new Magistrates have been appointed together with additional support staff especially for courts in the rural areas and provided with necessary resource materials to aid with the dispensation of their duties. Currently, there are forty two (42) Magistrates and twenty-seven (27) Cadis.

Private Legal Practitioners also take up cases on pro bono basis for less privileged members of society. The General Legal Council has included the offering of pro bono services as one of the considerations for the grant of the rank of Senior Advocate. It is hoped that this will boost the number of lawyers offering pro bono services in The Gambia.

Notwithstanding the above gains, the Judiciary still faces some challenges especially in the taking of records of proceedings. Up to date, the Judges manually record proceedings and this causes great delay in the justice delivery system.

## ARTICLE 8 RIGHT TO FREEDOM OF CONSCIENCE

Chapter IV of The Gambia Constitution enumerates fundamental rights and freedoms. Section 17 of the Constitution enjoins all organs of the state and all legal and natural persons to respect and uphold the rights and freedoms enshrined in Chapter IV. It is further provided in Section 5 of the Constitution that any aggrieved person may seek a declaration from a court of competent jurisdiction, for any acts or omissions of any person or authority which is inconsistent with or in contravention of a provision of the Constitution.

Section 25 of the Constitution has guaranteed the fundamental rights of freedom of expression, assembly, conscience, association and movement.

### Freedom of Religion

Section 25(1)(b) and (c) of the Constitution provide that “**every person shall have the right to freedom of thought, conscience and belief, which shall include academic freedom (c) to practice any religion and to manifest such practice.**”

The Government has affirmed its support for religious freedom and promotion of religious tolerance as enshrined in the Constitution of The Gambia. There is no state religion in The Gambia. Religious tolerance and respect for the constitutional provision that guarantees freedom of religion and practice has been tested recently following the petition written by The Gambia Supreme Islamic Council voicing their opposition to Public Utilities Regulatory Authority (PURA) regarding television license application by the Ahmadiyya Jama'at, a minority religious group in the country. However, the Government has approved the application and issued television license to Ahmadiyya Jama'at.

### Freedom of Expression

Section 25(1)(a) of The Gambia Constitution guarantees the right to freedom of speech and expression and it reads:

**“Every person shall have the right to freedom of speech and expression, which shall include freedom of the press and other media”**

The Gambia has witnessed decades of brutal crackdown on freedom of expression and free press under the autocratic Government of Yaya Jammeh. Journalists, human right activists and politicians have been

subjected to intimidation, imprisonment, exile, unlawful killings such as the killing of enforced disappearance of activists<sup>2</sup>, and torture<sup>3</sup>. Civil society activists, religious leaders and trade unionists as well were all arrested and detained for criticizing the Government.

The Media was stifled in the most blatant manner just because it sought to inform and enlighten The Gambian people. Newspapers and Radio Stations were arbitrarily shut down; journalists were routinely arrested, jailed and sometimes put incommunicado and oftentimes tortured. Media houses were reportedly attacked by masked men at their premises and in some instances, their press equipment were set on fire simply because they wrote stories and editorials the former President did not like.

### **The Citizen FM Radio and Independent Newspaper incidents in 1998 and 2004**

Citizen FM Radio was a privately-owned radio station which fell under attack in 1998 when heavily armed security forces stormed the offices of Mr Baboucar Gaye, Proprietor of the Radio Station and put the Station under lock and key while Mr Gaye was put under arrest. He was later tried and found guilty of operating a radio station without a licence contrary to Section 7 (1) of the Telegraph Stations Act 1913. Mr Gaye successfully appealed against the decision of the trial Court but the State disregarded the ruling of the Appellate Court and forcibly confiscated and permanently shut down the radio station.

In the same vein, the Independent Newspaper, a privately-owned Media house, was also forced to stop publishing when in April 2004, all its printing press were burnt to ashes in an unsolved arson attack.

Further, in its attempt to muzzle freedom of expression, the former regime enacted many laws with the purpose of restricting freedom of expression. For instance, in December of 2004, the National Assembly of The Gambia amended the News Paper Act by increasing the bond amounts for private newspapers from D100,000 to D500 000.

Furthermore, in July 2013, the National Assembly of The Gambia passed the **Information and Communication (Amendment) Act 2009** and it is provided therein that internet users, journalists and bloggers found guilty of spreading false news or making derogatory statement, inciting dissatisfaction, or instigating violence against the Government or public officials will face 15 years in prison and a fine of up to

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<sup>2</sup> Such as the enforced disappearance of Ebrima Manneh in 2009 and others.

<sup>3</sup> For instance, the torture of a Gambian Journalist Musa Saidykhan in 2012.

3 million Dalasi<sup>4</sup>.

Since the change of political dispensation however, freedom of expression and the media have been given fresh impetus; two private television stations, a number of radio stations and three newspapers have come into operation. The Government is currently working with The Gambia Press Union to establish an independent Media Council to consolidate the gains in the entrenchment of media freedoms in The Gambia.

The new Government of The Gambia has committed itself to upholding the highest standards of freedom of expression. As part of measures to reform the criminal and media laws of the country, a National Media Law Review Committee has been constituted under the auspices of the Ministry of Information and Communication Infrastructure and Article 19 to review all existing media laws that are inimical to freedom of expression. A parallel criminal justice reform exercise has also been instituted to reform the criminal laws of The Gambia in line with best international practices.

The ECOWAS Court has had cause to deliver a number of rulings against The Gambia for violations of human rights. For instance, in 2008, the ECOWAS ordered The Gambia to pay compensation to three Journalists, Ebrima Manneh US\$100,000 and US\$200,000 to Musa Saidykhan, in 2010 and in 2016 awarded US\$50,000 to the family of Deyda Hydara.

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<sup>4</sup> In an unreported case of the **Inspector General of Police V. Fatou Jawo Manneh**, a USA based Gambian Journalist was charged with four sedition related offences for the remarks she made in 2005 with an online newspaper in the USA. In 2008 the Kanifing Magistrates' Court fined her 250,000 dalasis for the offences.

In 2009 the High Court of The Gambia in the case of **The State v. Pap Saine & 5 others**, convicted and sentenced six members of The Gambia Press Union to various terms of imprisonment for insulting former president of The Gambia Yaya Jammeh.

In January 2014, two journalists, *The Voice* newspaper editor **Musa Sheriff** and freelance journalist **Sainey Marena** were arrested and charged with conspiracy to commit a felony and publication of false news.

In December 2015 four Gambian journalists (**Fatou Jaw Manneh, Fatou Camara, Alhagie Jobe and Lamin Fatty**) filed a suit against the former regime of Yaya Jammeh at the Economic Community of West African States (ECOWAS) Court for violation of their rights to freedom of expression through the enforcement of laws criminalizing libel, sedition and false news in the country.

The Court found that the rights of these four Gambian journalists had been violated by the actions of The Gambian authorities through the enforcement of laws criminalizing free speech. Their arrest and detention was found to be an unnecessary restriction and amounted to a violation of their rights to freedom of expression, liberty and freedom of movement.

The new Government has reiterated its commitment to the respect for the rule of law by adhering to all ECOWAS court judgements.

Furthermore, in 2017 the authorities issued arrest warrants for the former Army Officers Kawsu Camara and Sanna Manjang for the alleged murder of journalist Deyda Hydara in 2004.

### **Article 9: ACCESS TO INFORMATION**

Access to information is considered as one of the fundamental rights in a modern democratic society that will enable citizens to make better and informed decisions. It is provided in the laws of The Gambia that every citizen has a right to freedom of expression, to receive and impart information without interference of public authorities.

The current Government of The Gambia through the Ministry of Justice and Article 19 have a signed memorandum of understanding to work on the media law reform program, including the drafting of an access to information law.

### **Article 10 FREEDOM OF ASSOCIATION**

#### **Constitutional Measures**

In terms of the enjoyment of the right to freedom of association, every person in The Gambia, whatever his or her race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status, shall be entitled to the fundamental human rights and freedoms of the individual contained in the Constitution but subject to respect for the rights and freedoms of others and for the public interest.

Section 25(1) (e) provides that: “**every person shall have the right to freedom of association, which shall include freedom to form and join associations and unions, including political parties and trade unions**”. right to freedom of association is protected under the Constitution

Unfortunately, The Gambia has experienced a high degree of suppression of the enjoyment to this right between 1994 and 2017, where members of political parties and other organisations have been subjected to arbitrary arrest, detention, torture and imprisonment for exercising their right to freedom of association.

The case of the arrest and killing of Solo Sandeng and the arrest and incarceration of the entire leadership of the United Democratic Party (UDP) are clear cases in point.

The Gambia has ratified and domesticated the two ILO Conventions of the CO87 on the Freedom of Association and Protection of the Right to Organise Convention 1948 and CO98 on the Right to Organise and Collective Bargaining Convention 1949 during the period under review.

#### **ARTICLE 11: FREEDOM OF ASSEMBLY**

The Constitution guarantees the right to assembly and protest. Section 25(1) (d) of the Constitution provides that:

***“Every person shall have the right to assemble and demonstrate peaceably without arms”***

However, Section 25 (4) of the Constitution provides that this right may be restricted for the purpose of protecting public morality, national security and this restriction must be necessary in a democratic society. Section 25(4) states that ***“the freedoms referred to in subsections (1) and (2) shall be exercised subject to the law of The Gambia in so far as that law imposes reasonable restrictions on the exercise of the rights and freedoms thereby conferred, which are necessary in a democratic society and are required in the interests of the sovereignty and integrity of The Gambia, national security, public order, decency or morality, or in relation to contempt of court”***.

For most parts of the reporting period, the **Public Order Act** (POA) was used to curtail this freedom. Acting under the guise of this Act, in April 2000 the Security Forces heavily cracked down on a student protest leading to the death of 16 students and a journalist. Similarly, in April 2016, when the youth leader of the United Democratic Party (UDP) Ebrima Solo Sandeng was arrested and killed while protesting for electoral reforms and the entire leadership of the UDP<sup>5</sup> was subsequently imprisoned for unlawful assembly when they marched to demand the body of Solo Sandeng.

In 2016 the constitutionality of the Public Order Act was challenged where a declaration was sought from the Supreme Court for a declaration that the requirement of a license for any public procession under

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<sup>5</sup> They were Kemesseng Jammeh, Femi Peter's, Lamn Debba, Lamin Jatta, Babucarr Camara, Fakebba Cessay, Ismaila Ceesay, Momodou Fatty, Dodou Ceesay, Samba Kinteh, Mamudu Manneh, Nfamara Kuyateh, Fanta Darboe, Lamin Njie, Juguna Suso, Momodou L.K. Sanneh Yaya Jammeh and Massaneh Lalo Jawla

Section 5 of the Public Order Act is illegal and unconstitutional as it violated Section 25(1) (d) and Section 25(2) of the Constitution. The plaintiffs were also seeking from the Court to declare that Section 5 of the Public Order Act which requires permit or any other authority for the convening or holding of public procession in any part of The Gambia is illegal, unconstitutional and made in excess of legislative authority having regard to Section 25 of the Constitution of The Gambia.

In 2017, the Supreme Court ruled that the provisions under Section 25, guarantees freedom of speech, conscience, assembly, association and movement and the restrictions provided under the POA are constitutional. The court also held that the Act was placed reasonably justifiable restrictions under the Constitution necessary in a democratic society.

Since the current Government took office, some applications for peaceful assembly and protests have been made granted under the Public Order Act.

## **ARTICLE 12: RIGHT TO FREEDOM OF MOVEMENT AND RESIDENCE WITHIN THE BORDERS OF THE GAMBIA**

### **1. Constitutional and Legislative measures**

Section 25 (2) of the Constitution, guarantees the right of all persons lawfully in the country to move freely throughout The Gambia, to choose their place of residence within the country and to leave The Gambia.

Section 25 (3) of the Constitution guarantees the rights of every citizen of The Gambia to return to the country and Section 25 (4) of the Constitution imposes reasonable restrictions necessary in a democratic society.

The Gambia Nationality and Citizenship Act makes provision for the acquisition of citizenship by registration in certain cases, regulate the manner and circumstances in which non-Gambians may be naturalised as citizens of The Gambia and Gambian citizens may renounce or be deprived of their citizenship. Section 16 of the Act provides the right of appeal to the High Court for persons whose identity card has been refused.

Section 4 of the Act provides for the registration of minors as citizens providing that 'the Minister may cause the minor child of a person registered as a citizen of The Gambia upon application made in the prescribed manner by a parent or guardian of the Child.' The Act further states that 'the Minister in such special circumstances as he or she thinks fit, may cause a minor to be registered as a citizen of The Gambia.'



The Immigration Act contains provisions for the control of immigration into and residence in The Gambia. Section 3 of the Act provides that the President can grant special immigration status to a person. Section 15 of the Act details to whom the Minister in charge of the department of immigration may make a deportation order and Section 16 of the Act also provides that a Court may recommend deportation certain persons identified in the Act. The Department of Immigration is the Government institution charged with the responsibility of issuing Passports and Nationality identification cards for citizens.

The Government has created an environment for non-Gambians in the country to move freely and live with non-Gambians protected from any form of discrimination or harassment.

Despite the measures adopted to address the situation of non-Gambians in the country, in 2005 nearly fifty ECOWAS migrants of mostly Ghanaian citizenship were killed in The Gambia. As part of Transitional Justice measures, the Government has promised to establish the exact circumstances and truth of what happened.

### **Refugees in the country**

The Refugee Act has been enacted to make better provisions for the management of refugee affairs in the country by establishing The Gambia Commission for Refugees. The Act contains provisions for the determination of refugees and grounds for deprivation of refugee status. Section 40 of the Act provides the right of appeal to the Minister for any person refused refugee status by the Commission along with situations when refusal is maintained upon appeal.

The Gambia Commission for Refugee (GCR), which is responsible for the security and protection of refugees in The Gambia, has been in existence since 2008. The Commission in its bid to create the enabling environment for refugees, issues visitors pass (*laissez passer*), refugee ID cards and conventional travel documents to refugees to ensure refugees can move freely within ECOWAS member states.

However, the Commission is constrained in its efforts to safeguard the interests of refugees due to inadequate funds and logistics. The availability of transit centres for refugees and asylum seekers in both the rural and urban areas hinders the work of the GCR to provide the necessary support.

Notwithstanding the various challenges faced, the Government continues to heavily invest in the management of issues affecting refugees with a view to providing them with favourable atmosphere while durable solutions are sought.

In addition to the work of the GCR, the Government through the Ministry of Health and Social Welfare provides refugees with access and treatment to health facilities as it pertains to cost of treatment in all Government hospitals.

The Government has over the past welcomed persons fleeing persecution, civil upheaval and conflict such as with those from Cassamance, Liberia, and Sierra Leone. The Government through refugee host community leadership assist refugees to integrate locally in The Gambia by providing them with land to build their homes and to farm on. Furthermore, the United Nations High Commission for Refugees facilitates the local integration of refugees through various livelihoods support.

During the influx of refugees from Cassamance, Senegal in 2011, the Government provided material assistance such as food, shelter, clothing and free medical care. Senegalese refugees from the region of Cassamance numbering around twelve thousand (12,000), form the majority of refugee population in The Gambia

Origin	Female					60 and over	Female Total (d)	Male					60 and over	Male (d)	Total
	Grand 0-4	5-11	12-17	18-59	18-59			0-4	5-11	12-17	18-59	18-59			
Congo republic		1	1	2			4	1	1	3			5	9	
Cote d'Ivoire	15	22	14	40	2		93	10	19	13	55	1	98	191	
Democratic Republic of Congo	2		8	14	1		25	2	4	4	7		17	42	
Guinea Bissau	1	2	1	3			7			2	2	1	5	12	
Liberia	6	2	5	22	1		36	4	1	1	25		31	67	
Rwanda				1			1						0	1	
Senegal (Rural)	466	725	497	1,596	206		3,490	411	789	505	1,352	210	3,267	6,757	
Senegal	32	90	60	182	14		378	45	52	52	163	58	370	748	
Sierra Leone	8	10	8	36			62	6	11	14	27		58	120	
Somalia			1	1			2						0	2	
Sudan							0				1		1	1	
Togo	1		2	2			5	4	1	1	12		18	23	
	531	852	597	1,899	224		4,103	482	878	593	1,647	270	3,870	7,973	

Table of showing Refugee Population in The Gambia

## ARTICLE 13. RIGHT TO PARTICIPATE IN GOVERNMENT:

### Constitutional and Legislative measures

Section 26 of the Constitution guarantees political rights of all Gambians of full age and capacity without unreasonable restrictions 'to take part in the conduct of public affairs, directly or through freely chosen representatives. 'to vote and stand for elections at genuine periodic elections for public office, which elections shall be by universal and equal suffrage and be held by secret ballot,' 'to have access, on general terms of equality, to public service in The Gambia.

Additionally, Section 39 of the Constitution provides the right to vote and be registered for the purpose of voting in elections of a President and members of National Assembly, referendum, local Government authorities and traditional rulers. As provided by the Constitution, voting in election is to be done in secret. The Constitution also established the Independent Electoral Commission which regulates the registration of voters and conduct of elections in the country.

In a bid to ensure that elections are transparent and conducted in a free and fair manner, the Independent Electoral Commission has received the political commitment of the Government to guarantee its independence. It is expected that the IEC's independence and financial autonomy will be entrenched in the new Constitution that will be promulgated after the Constitutional review process is completed.

Furthermore, to encourage fair elections and widespread participation of the ordinary citizenry, the Elections Act was amended in 2017 to reduce the exorbitant deposits payable by candidate for elected office. This has had a tremendous effect with the IEC registering a record number of candidates in the National Assembly and Local Government elections. There is a registered increase in the level of participation for the first time in the electoral history nine (9) political parties were registered for the local Government elections of 2018.

In addition the 1997 Constitution recognising the right of women to participate in political and public life as provided in Section 26. In addition, Section 214(4) states that "in the composition of Government, women shall be fairly represented".

The Women's Act under Section 15 provides for temporary special measures to be adopted by every organ, body, public institution, authority or private enterprise aimed at accelerating *de facto* equality between men and women. This Section becomes more relevant in the political arena and decision-making at all levels, where women are not legally barred from participating effectively on an equal footing with men, but may not be able to do so due to cultural bias in favour of men, and stereotypical perception of the role of women.

Notwithstanding the highlighted laws, Section 71 of the Constitution prohibits a person with dual citizenship from holding the position of Minister. However, with the on-going Constitutional Review Commission, this is

a matter that the Commission can consider. Furthermore, a petition has been filed at the Supreme Court challenging the Constitutionality of this provision.<sup>6</sup>

### **Policy and Administration**

Presently, there is an Interparty Committee comprising of Political Parties and their role is to determine Politicians' conduct, language used during campaign, to sit down and mediate and dialogue between political parties when there is a problem. Although it is independent, the IEC assists the Interparty Committee and has helped it to get a Secretariat and there are plans to give it statutory backing.

The country's political system is based on multi-party democracy with eleven (11) registered political parties recognized at the national level. According to the 2013 Census, out of an estimated population of 1,882,450, The Gambia Bureau of Statistics provides that there are 796,929 registered voters. It should be noted that The Gambia boasts of universal adult suffrage, any person over the age of 18 can vote. Furthermore, a person has a right to publicly challenge the eligibility of persons on the voters list before a revising court, which is established specially for this purpose. In addition to this, any person aggrieved by the outcome of elections, may challenge same before the courts of law.

The National Council for Civic Education has the mandate to sensitize the public on the importance of their active role in politics and governance.

On the participation of women, Gambian Women constitute 58% of the electorate however only 10% of representation in the National Assembly is found to be women. There are 5 women of which 2 are elected and 2 nominated by the President. Thus, the proportion of female parliamentarians is well below the 30% goal.

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<sup>6</sup> *Lamin J Darbo v The Attorney General and Minister of Justice SC002/2017*

**Table 6: Representation at the National Assembly by Sex, 2018**

Component	Indicators	Sex		Both Sexes	Remarks
		Female	Male		
Public Sector	Members of National Assembly (elected)	2	46	48	
	Members of National Assembly (nominated)	3	2	5	
	Speaker of the National Assembly	1	-	1	
	Deputy speaker of the National Assembly	-	1	1	
<b>Total</b>		<b>6</b>	<b>49</b>	<b>55</b>	

As of 2015 all the eight local Government administrations (Area Councils and Municipalities) were headed by men with only one female Regional Governor. Despite their being 39 District Chiefs and 1 Paramount Chief, none of these positions are held by women. Further of the 1873 villages in the country, there are only 5 female Village Heads (*Alkalolu*) which although small is a notable change in traditional decision-making structure.<sup>7</sup>

Despite the continued lack of female representation in local Government, in 2018 the first female Mayor was elected in the country's capital while two of the five governors in the country are women. Further, currently only 2 out of 18 Cabinet Ministers in the Government are occupied by women. However, since 1997 to June 2018, the position of Vice President of The Gambia had been occupied by a woman. At the National Assembly, although the current Speaker is a woman, it is disappointing to note that there are only five other female National Assembly Members two whom were elected with the rest nominated by the President. In the Judiciary and legal sector, out of a total of 20 Judges, there are currently 8 female judges in the Superior courts of The Gambia, with one sitting in the Supreme Court and one serving as President of the Court of Appeal. In the subordinate courts, 22 out of the total of 42 Magistrates are women.

Despite this continued deficiency, Government has taken strides in realizing this right for women but more still needs to be done as women are still in the minority in parliament (as reflected above) and other public offices.

### **Constraints**

1. Despite the considerable progress made, The Gambia is yet to attain the requisite 30% representation at all levels. The Target had been attained at the level of cabinet however recent changes in cabinet have seen this change. Further, the representation at the National Assembly and Local Government remains below the minimum required. There is need to encourage more women to assume top managerial positions and other decision-making roles in the interest of empowering them.

2. Socio-cultural beliefs and practices, such as patriarchy continue to hinder the complete acceptance of women and their participation in positions of leadership. Cultural phenomena have created the stereotype 'impression that men are superior and women are inferior' and a 'socialization process [that] has also led men and women to perceive men as leaders and women as supporters.' These perceptions are alleged to "put women in the private sphere as wives, mothers and daughters and men in the public domain of decision-making", as well as the economic and political arena.

3. The Women's Act did not adequately address this problem as meeting the target was not included as a legislative requirement.

4. The trend of excluding females from decision-making positions is a reflection of the low status of women and other groups in Gambian society. There is need for the promotion of girls and women's participation in politics so that they come forward in their numbers to vie for political office.

### **Access to public property and services**

To ensure all people have the right to public property and services, Section 31 of the Constitution protects persons with disability from exploitation and discrimination particularly as it regards access to health services, education and employment.

In recognition of challenges faced by persons from disadvantaged communities, the Government has reduced the fee payable by persons seeking medical treatment at Government medical facilities. Education

is also free and compulsory for all until grade twelve with several initiatives taken to increase access to tertiary education.

In the rural communities, the Government continues to increase the availability of health facilities in these areas along with personnel to staff them. This has seen several health centres, major and minor hospitals opened in rural communities.

Currently, most Government institutions have offices in the regions to ease access to public services. However most of these institutions suffer from inadequate staffing and financing; thus affecting the speed at which services are provided.

In addition, the Disability Bill amongst other things, seeks to ensure that persons with disabilities are able to gain access to public property.

## CHAPTER TWO: ECONOMIC & CULTURAL RIGHTS

### ARTICLE 14: RIGHT TO PROPERTY

**The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.**

The right to property is guaranteed by Section 22 of the Constitution. It provides that every person has a right to own property either individually or in association with others and that no person shall be compulsorily deprived of property or any interest in or right over property of any description. This is subject however to certain reasonable and justifiable conditions.

The Constitution requires the payment of prompt and adequate compensation to individuals and families whose properties have been compulsorily acquired by the State. An example of this is in 2005 with the extension of the Banjul Ports, which saw residents relocated and given compensation under the Lands Acquisition and Compensations Act 1991.

Other legislation enacted for the promotion of this Charter right are the State Lands Act 1991, the Registration of Deeds Act, the Rent Tribunal Act, the District Tribunal Act, the Lands (Regions) Act 1957, and the Land Acquisition and Compensation Act. Consequently, forced eviction is illegal in the country, nearly all evictions must be sanctioned by a court order and on the condition that adequate notice of such eviction is given to the persons to be affected by such an order.

Mechanisms for dispute resolution over property are in existence through the court system, Alternative Dispute Resolution Secretariat, District Tribunals and Rent Tribunals. All these measures ensure that no one is arbitrarily deprived of their property.

Following the change of Government in 2016, numerous reports have been received against former President Jammeh unlawfully seizing people's property. Consequently, there are moves to set up a process to review cases of land dispute with a view to formulating a system.

#### **ARTICLE 15- RIGHT TO WORK**

Although the Constitution does not make provision for the right to work under equitable and satisfactory conditions, Section 33 prohibits all forms of discrimination in employment in respect to sex, gender, race or disability. The Labour Act, Social Security and Injuries Compensation Fund Act and Injuries Compensation Act, all ensure that the working conditions are favourable in The Gambia. The law provides for workers who suffer injury during work are entitled to medical care and sufficient compensation.

The Industrial Tribunal and the Office of the Ombudsman are the mechanisms in place, not only to ensure that workers work under equitable and satisfactory conditions but also to receive workers' complaints regarding the violation of their rights.

The Labour Act makes provisions for the protection of wages, contracts of employment and terms and conditions of employment.

With regards to female employees, they are entitled to six months maternity leave with pay at the normal rate.



Furthermore, an employee returning from maternity shall be placed in the same job with the same benefits and entitlements as immediately before her maternity leave began, within four weeks of giving notice to her employer of her wish to return to her employment

The Labour Act also ensures that employees are entitled to regular remuneration for each day of public holiday, and the period of annual leave shall be extended by one working day with full day pay for each day of public holiday that falls within that period of leave. Wages paid to employees are paid in accordance with the term of the contract of employment and may only be changed by agreement of both parties.

Section 31 on the Rights of the Disabled provides, “the right of the disabled and handicapped to respect and human dignity shall be recognized by the State and society. That the disabled persons shall be entitled to protection against exploitation and to protection against discrimination; in particular as regards access to health services, education and employment’ and “in any judicial proceedings in which a disabled person is a party, the procedure shall take his or her condition into account.”

Many people with disabilities are being employed in both the public and private sector. The Government through the Department of Social Welfare has also engaged in disability and equality training and this has been conducted for twelve training institutions and some employers.

## **ARTICLE 16: RIGHT TO BEST ATTAINABLE STATE OF PHYSICAL AND MENTAL HEALTH**

**State Parties to the Present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.**

Although the right to health is not guaranteed as a fundamental human right in the 1997 Constitution of The Gambia, it is a fundamental objective and directive principle of state policy in Chapter XX of the Constitution. Under the National Health Policy, “Health is Wealth” and the Health Master Plan 2007 -2020 and The National Reproductive Health Policy 2007 – 2014, the Government has made great strides to promote the right to health in the country, through accelerated and affordable health care. This has been updated to the 2017 to 2026.

It should be noted that there are three levels in the public health care system in The Gambia, namely, the Primary, Secondary and Tertiary Levels. The services rendered at the primary level include treatment of minor illnesses, environmental health and sanitation, antenatal care, delivery and postpartum care, home visits, community health initiatives and basic outpatient services. There are 492 health posts at the primary level. Basic health care at the secondary level is provided by minor and major health centres of which there are presently 38, the major centres serving as referrals for the minor centres. The 6 public referral hospitals at the tertiary level provide specialized services not available at the secondary level.

### **Maternal Health and Infant Mortality**

Maternal and antenatal health care is freely offered in all Government health centres. Primary and secondary health care has also significantly expanded, and increased immunization has reduced mortality rates. The infant and under 5 mortality rates is at 81 and 109 per 1000 respectively as per The Gambia Multiple Indicator Cluster Survey 2010 Report. This is an impressive fall in mortality indicators compared to MICS 2005/2006 which showed 98 and 141 per 1,000 respectively for infant and under-5 mortality. Compared with other countries in the sub-Saharan region, childhood mortality is relatively low in The Gambia. Under-5 mortality for the period 0-4 years before the GDHS survey, which corresponds approximately to the calendar years 2009-2013, is 54 deaths per 1,000 births.

Following the usual pattern, most of the early childhood mortality occurs in the first year of life; the infant mortality is 34 deaths per 1,000 births, while mortality between the first and the fifth birthday is 20 deaths per 1,000. As expected, neonatal mortality (mortality during the first month) is higher than post neonatal mortality (22 deaths per 1,000 compared with 12 deaths per 1,000), representing 65 percent of the overall infant mortality.

Mortality shows a downward trend. Infant mortality decreased from 50 deaths per 1,000 births in the 10 – 14 years before the survey (1999 – 2003) to 46 in the 5 – 9 years before the survey (2004 – 2008) and 34 in the 0 – 4 years before the survey (2009 -2013).

In The Gambia, a large majority of women receive antenatal care from a skilled provider, and 86 percent of women received antenatal care from a skilled health professional, that is, a doctor, nurse, or midwife during

the pregnancy for their most recent birth in the five years preceding the survey. Antenatal coverage varies little by mother's characteristics, and even amongst women with no education 84 percent received antenatal care. Amongst rural women the proportion is 85 percent.

Tetanus toxoid injections are given to women during pregnancy to protect infants from neonatal tetanus, a cause of infant death that is due primarily to unsanitary conditions at childbirth. Full protection is considered to be provided to an infant once the mother receives the required number of injection.

Antenatal care coverage country-wide is 96% and Reproductive and Child Health (RCH) awareness is 96%. RCH services including family planning are provided free of charge. Micro-nutrient deficiencies which are a major cause of morbidity and mortality are being addressed through a nutrition supplementation programme. These and other interventions such as increased number of births attended by trained antenatal personnel and maternal education have contributed to the decline in infant mortality and improved maternal health.

### **Malaria**

According to The Gambia Demographic and Health Survey, 2013, prevalence results based on the use of a Rapid Diagnostic Test (RDT) and on the reading of thick-smear slides carried out at the national public health laboratories, the results portray in general that malaria prevalence is very low in The Gambia. Only 1 percent of the children tested by microscopy were found to be positive for malaria. The prevalence according to the rapid diagnostic test is higher (2 percent), because the parasite's antigens may still be present in the child even after the parasites have disappeared.

One reason for the observed low prevalence is that the 2013 GDHS survey was conducted between February and April, during the dry season. A Malaria indicator survey conducted in 2014 in the later part of the rainy season between October to November revealed a national malaria prevalence rate of 0.2 percent amongst the general population. The survey also showed a malaria prevalence rate of 0.1 amongst children less than five years. Generally malaria transmission rates have continued to decline in The Gambia during the last decade.

Malaria in The Gambia is known to be highly seasonal, with transmission occurring as anopheles populations expand during and immediately after a single annual rainy season that usually lasts from June

to October. However, Government through the Ministry of Health has taken several measures to control and prevent Malaria in The Gambia.

The Ministry of Health in collaboration with the Medical Research Council, World Health Organization and other stakeholders in the Health Sector hold continuous public awareness programmes on the prevention of Malaria such as the use of treated mosquito nets and indoor residual spraying. The Government also avails the public hospitals and health centres with drugs and diagnostic materials for treatment of malaria free of charge, to ensure access to health for all.

Other measures taken by the Government are, procurement of effective and efficient Ante-malarial drugs (Artemether Lumefantrine) for the entire population, provision of free malaria drugs (SP) to all pregnant women in the country, procurement and distribution of long lasting insecticide treated nets to the entire population, Indoor Residual Spraying of all rooms and structures in targeted regions every year and procurement of other drugs.

Government also engages in continuous training of health workers at all levels, including malaria control and prevention activities, village health workers in home management of malaria to enhance their knowledge and skills in malaria case management at village level.

The Government has made continuing training of village Health workers since they are the immediate medical contact persons at the village level. They are continuously trained on how to apply the RDT. The Government also, on a regular basis supplies the village health workers with kits for the RDT and malaria drugs to enhance access to malaria services at village level. The village health workers have also been provided with bicycles for ease of transportation, in order to make them more efficient in the provision of timely medical services in their community

Government has also established and expanded laboratory facilities across the country, and has recruited and trained more laboratory personnel. Government has also invested in the purchase of laboratory equipment and other consumables, which it provides on a regular basis to hospitals and health centers.

Furthermore, Government has engaged in continuous public sensitization of opinion leaders, youth groups, teachers and traditional healers on Home Management of Malaria (HMM), and sensitization of National Assembly Members on malaria control and prevention in The Gambia.

## **HIV/AIDS**

The HIV prevalence rate in The Gambia as per the GDHS conducted in 2013 is 1.9 percent. The prevalence rate amongst women is higher with is 2.1 percent where as it is 1.9 percent among men. It has also been that the prevalence rate is higher amongst women and men aged 35-39 with a prevalence rate of 5.9 percent.

In a bid to reduce the prevalence of HIV/AIDS in the Government of The Gambia adopted a National HIV and Aids Policy entitled “policies and Guidelines on HIV and AIDs, which was followed by the development of a National Strategic Plan focusing on prevention through education. The Revision of the document was made through wide consultations with various stakeholders led to the development of the 2014-2020 HIV and AIDs policy. The main purpose of the 2014-2020 policy document remains the same in addition to providing universal access to high standards of prevention, treatment, care and support services to affected persons in a conducive environment.

Additionally, the Government has engaged in a number of sensitization drives to promote abstinence, condom use and advocate for spouses to be faithful in marriage. Sensitization is also conducted to advocate for sexual behavior change and for a reduction in the number of sexual partners.

The GDHS shows the percentages of women and men who demonstrated knowledge of several specific ways to avoid AIDS in response to prompted questions. Overall, the use of condoms as a way of avoiding HIV infection is more widely recognized by men than by women (78 percent compared with 71 percent), while limiting sexual intercourse to one uninfected sexual partner is equally recognized by about 86 percent of men and women alike. Government is however raising awareness for women in this regard. More than two-thirds are aware that using condoms *and* limiting sex to one uninfected partner reduces the risk of contracting AIDS. As one would expect respondents residing in urban areas and those with higher educational achievement have more knowledge of ways to prevent getting HIV.

Currently, 62% percent of women and 68% of men with no education say that the risk of getting the HIV virus can be reduced by using condoms *and* limiting sex to one uninfected partner; this compares with 75 percent of women and 76 percent of men with secondary or higher education. Government continues to work with community radios to raise awareness.

Government has engaged in a series of sensitization programmes to address this imbalance, and to educate women, at all levels on the advantages of condom use for the protection against sexually transmitted diseases, HIV/AIDS inclusive. Furthermore, sensitization programmes at village levels, through community leaders, has been a Government priority to address the imbalance between the urban and rural areas on access to information regarding the prevention of, medical services and social support available to patients of HIV/AIDS. For example, billboards, radio programmes, in English and local languages, television programmes such as music and drama and print media, are tools utilized by Government in its efforts to sensitize the public.

Free ARV drugs are also given to persons with H-I-V and treatment for other diseases associated with HIV such as tuberculosis is also easily accessible to patients, at an affordable price.

The Government through the Ministry of Health also conducts periodic health surveys to monitor the prevalence of the aforementioned diseases and for record keeping. This information is relevant for planning medical care and services for the persons affected with these diseases.

The Government has also established more centres for HIV/AIDS prevention, control and treatment. These include HIV Counselling and Testing (HCT), Prevention of Mother to Child Transmission (PMTCT), HIV Clinical Care and Anti Retroviral Therapy (ART). There are currently, forty-five (45) centres providing HCT services and thirty-two (32) centres providing PMTCT and ten (10) ART services, across the country. The ART canters also offer Behavioural Change communication (BCC) services to the community and Post Exposure prophylaxis (PEP), specifically for survivors of gender based violence and health workers.

In 2007, the former president Yaya Jammeh conducted a HIV and AIDs treatment program, which ran through to 2016. This program has been identified as a huge set back for affected persons who enrolled

in the treatment program and were required to abandon the use of their Anti- retroviral and intake unconventional medication in order to be treated. During the course of treatment, it has been alleged that several affected person's who were enrolled in the program suffered complications and some even lost their lives. As a result, the survivors have lodged a civil suit at the High Court and are claiming damages in tort for the harm 'pain and suffering' and loss they suffered during the treatment programme. The Survivors found the claim for damages on the unlawful imprisonment and the inhumane and degrading treatment they allegedly endured during the months of January through July 2007. The survivors also claim that the treatment programme also violated their constitutional right to be free from torture. Additionally, as a part of the Transitional Justice process initiated by the Government, a Truth, Reconciliation and Reparations Commission Act has been enacted to establish a Commission to address past human rights violations and impunity of the former regime. This platform will therefore be another avenue for their stories to be heard and acknowledged by the Government and possibly give them an opportunity to be granted reparations.

### **Tuberculosis**

The following measures have been taken to combat Tuberculosis (TB) in the country; The Government has put in place, a National TB treatment guideline, National Strategic plan for TB control, advocacy, communication and social mobilization strategy for promotion of TB prevention, control and treatment of Tuberculosis.

The Government of The Gambia, is committed to TB control and treatment. Therefore, it has made the provision of TB services free of charge to all, irrespective of nationality. Anti TB drugs are also supplied at all, care delivery levels The Government of The Gambia is also in line with the guidelines developed by the World Health Organization that considers children as fully vaccinated when they have received a vaccination against tuberculosis referred to as BCG provided at birth or at first clinical contact. At the administration of the GDHS, 68 percent of children aged 12 to 23 months were fully immunized.

Ministry of Health has also established and maintains a Multi Drug Resistant TB (MDR-TB) surveillance system to monitor the emergence of MDR – TB. In addition, there is a strong medical task force team established to monitor MDR -TB situation in The Gambia.

There has also been the strengthening of the Health Care system through the establishment of more health centers for the treatment of TB patients. Currently, The Gambia has 37 treatment and diagnosis center across the country, which includes the central prisons (at Mile 2 ) and recently at the Yundum Army barracks. These centers maintain direct observation of treatment (DOT) of all patients, address TB/HIV co-infection, by providing routine HIV counseling for all TB patients in all DOT centers, ensure that all Co-infected TB patients with HIV are put on ARV, ensure that Co-trimoxazole preventative therapy ( CPT) are provided to all HIV positive TB patients, ensure early TB case detection and Diagnosis, through the quality-assured bacteriology. In addition, The Ministry of Health also provides TB patients with nutritional support known as enablers packages.

The Ministry of Health, has also introduced the Practical Approach to Lung Health Strategy, commonly known as PAL, and this is implemented in all TB treatment centers to ensure early TB case detection and early treatment.

The Government also engages in advocacy and public sensitization of the community, community leaders and religious leaders on TB control and preventive measures, Implementation of the Advocacy, Communication and Social Mobilization Strategy (ACSM), targeting the general public, Policy makers, Community leaders and religious leaders on TB control and preventative measures.

The Government in order to prevent stigma and discrimination of TB patients has established EX - TB patients Association, in all the regional health centers in The Gambia, to sensitize TB patients as well as the general public that TB is treatable and curable.

### **Mental Health**

The Mental Health Policy 2007 clearly states that people with mental disorders should enjoy full human rights, including the right to appropriate health care, education, shelter and employment, and the freedom from discrimination and abuse.

Mental health treatment and care should promote and protect the autonomy and liberty of people with mental disorders. People with mental disorders have the right to be treated in the most effective least restrictive and least intrusive manner. People with mental disorders, due to their particular vulnerability to human rights violations, may require specific legal and quasi-legal frameworks and safeguards to ensure



that their human rights are promoted and protected. Care delivered to people with mental disorders should be strictly confidential.

The Ministry of Health and Social Welfare, in collaboration with partners in the health sector, is in the process of reforming the mental health legislation that was formulated in 1939 and amended in 1964. The mental health legislation if reviewed and repealed will be a useful and effective instrument to improve the situation of people with mental disorders and ensure their protection against human rights violations as well as the promotion of autonomy, liberty and access to health care. It will also make provisions to promote: Confidentiality, Informed consent, equal access to care, conditions in mental health facilities, appropriate and accessible care in the least restrictive environment in their community, safeguards to protect against abuse, equal opportunities to or for employment and shelter or housing; and equal access to justice amongst others. In addition to operationalizing the Mental Health Bill, once passed it is Government's policy as stated under the National Health Policy 2012- 2020 to also strengthen capacity for mental health research.

Communities in The Gambia are faced with numerous mental, neurological and psychosocial disorders that undermined development. Based on the prevalence rate from the World Mental Health Survey in 2004, it is estimated that approximately 27000 people in The Gambia (3% of the population aged 15 years and more) are suffering from severe mental disorders and a further 9100 (10% of the population aged 15 years and more) are suffering from moderate to mild mental disorders. This means that at least 118,000 people in The Gambia (13% of the adult population) are likely to be affected by mental disorders which require varying degrees of treatment and care.

In order to address this problem, the Government through the ministry of health, has taken a number of measures; the Ministry of Health and Social Welfare established a Health Promotion and Education Directorate in June 2012, which houses non-communicable diseases (NCDs) and Mental Health Unit respectively. The creation of a Directorate is intended to give the "strategic push" needed for tackling NCDs and Mental Health through health promotion. The creation of the Directorate of Health Promotion and Education has led to the proper coordination of advocacy, communication and social mobilization on mental health issues, as well as strengthened partnership and inter-sectoral collaboration at national and

community levels. The Government of The Gambia to however address this problem pending the revision of the laws has established a functional Mental Health and Substance Programme Coordination Office. There also exists a functional Community Mental Health Team. A National Mental Health Policy and Strategic Plan has been drafted.

### **Environment and Health**

In a bid to protect against environmental, industrial and occupational hazards and conscious of the negative impact it may have on the socioeconomic growth and development including health, both legislative and policy measures have been put in place to address these issues. A Public Health Act was enacted in 1990 and this was closely followed by the development and enactment of the National Environment Management Act 1994, and the Food Act 2005. It is also the Governments objective to reduce the frequency of environmental health and safety related diseases by 30 percent by 2020. It is also Government's policy to effectively handle proper management of solid, gaseous and liquid relate waste.

### **Discouraging Harmful Traditional Practices**

In a bid to eliminate adverse cultural norms that interfere with the right to health, the Women's Act 2010 specifically provides under Section 14(3) (e) that it is the Governments obligation to eliminate all forms of discrimination especially all forms of stereotypes and acts of discrimination which perpetrate or tend to perpetrate gender inequality. In addition to the massive nationwide sensitization of grassroots on harmful traditional practices such as Female Genital Mutilation (FGM) and early Child Marriage on its adverse health issues and the plethora of health complications that are associated with the practices, the Women's Act 2010 has been amended to criminalise Female Genital Mutilation in 2015. Furthermore, the Children's Act 2005 was also amended to criminalise early Child Marriage and betrothals in 2016.

The challenges faced with the recent passing of legislation discouraging harmful traditional practices include lack of well-equipped local police stations with the required legislation for charging of offences and a better understanding of the law. In addition, various communities believe that some of these laws especially the Laws criminalizing FGM and child marriage was imposed on the citizenry by the former regime and thus believe that with the new change of Government the laws no longer exist. This has therefore led to low rate of report of cases of FGM and Child Marriage. Notwithstanding sensitization efforts still continue to create awareness of the laws and the health implications at the grass roots level. Trainings

and workshops are also being provided for law enforcement officers especially on the recent amendment to the Women's Act 2010 and the amendment to the Children's Act 2005.

## **ARTICLE 17: RIGHT TO EDUCATION AND CULTURE**

- 1. Every individual Shall have the right to education.**
- 2. Every individual may freely, take part in the cultural life of his community**
- 3. The promotion and protection of morals and traditional values recognised by community shall be the duty of the state.**

The Gambia is one of the few African countries that have made the right to education, a constitutional right. The right to education is secured under Section 30 of the 1997 Constitution for The Republic of The Gambia that also provides for free and compulsory basic education for all Gambian citizens. It is also directive principles of state policy to ensure basic education for all citizens and provision of adequate resources so that such tuition for basic education shall be free for all citizens. In addition to the constitutional provisions, the Children's Act 2005 also provides for the right to education and an Education Bill is currently being drafted to provide for the management and development of educational services in The Gambia. Furthermore, to ensure that children enjoy the right to free and compulsory education it is also Government policy as enshrined under the previous education policies; dating back from the 1998 – 2003, 2004-2015 and the recent policy 2016-2030 upholds this.

The Government policy is putting more emphasis on mass education through universal basic education programmes to improve literacy levels among Gambians as opposed to education for a few elite.

In a bid to implement the legislative and administrative measures adopted to provide free and compulsory basic education and to realize Governments policy of accessible, equitable and inclusive quality education for sustainable development, several grants, schemes and projects have been introduced to assist the Government in providing this basic right.

With the introduction of School Improvement Grant (SIG), this can be seen as a positive stride towards actualizing the progressive introduction of free education provided for under the constitution and in education policies. The SIG covers the cost of stationary, books and school uniforms for

children from lower basic, upper basic and senior secondary education levels. The Grant is also coupled with the bursary scheme for girls that also provides for uniforms and stationary especially for girls in the rural area. In addition, the READ Project, by the Ministry of Education and the World Bank, a grant recently received in 2018 also providing for free text books in schools for both boys and girls.

To further ensure that education is made available for all, a Conditional Cash Transfer scheme has also been introduced to provide another form of education with minimum curriculum standards to children and youth who attend non-conventional Islamic schools. The Scheme has been introduced to 17 centres countrywide and aims to provide functional literacy and numeracy coupled with life and livelihood skills.

Moreover, these funds are supplemented by regional initiatives and incentives of various types, including special scholarship packages that cover a wide range of costs from fees, uniforms, and books to mentoring.

In order to make sure that children take advantage of the free education that has been made available to the public, free transportation has been made available in both rural and urban areas, by the provision of school buses and donkey Carts to ferry children to and from schools.

Tremendous success has also been gained in expanding access to education across all levels. Schools have been brought nearer to homes within 2km from the community. Building schools closer to the homes of the students contribute to providing safety and security especially for girls, as they have to walk shorter distances to and from the school. Under the Third Education Sector Project Phase 1, (1998-2006) and Phase 2, (2006-2011) the Ministry of Education was able to build classrooms throughout the country supported by various donors to improve access to quality education for all Gambians. Additional resources from the Education for All or Fast Track Initiative (EFA/FTI) and Global Partnership for Education (GPE) have also greatly contributed to the provision of additional classrooms and provided the impetus to accelerating access to basic education. Bringing schools nearer to homes to a large extent has helped in reducing the incidences of sexual harassment, abuse, teenage pregnancy and early marriage. The development of appropriate policy has also contributed to closing the gender gap.

Additionally, a home-grown school feeding framework has been initiated for regions 2 to 6 with the view of expanding coverage to all regions to encourage attendance of children from less privileged backgrounds.

**Gender Mainstreaming in Education:**

Gender mainstreaming strategies contained in the Education Sector Strategic Plan, ESSP 2004-2015 are:

- i. Minimising educational costs, especially for girls;
- ii. Increasing the number of child-friendly school environments;
- iii. Equity in gender participation at the Parent Teachers Association (PTAs), governing boards and management levels of schools.

Equity in gender participation in school management is being promoted through the School Management Structures (former PTAs). The School Management Committee (SMC) brings on board people who know the most about the learners and their educational needs, as well as about local values and realities and is the route to more responsive system. It provides the space for community participation and is more equitable as poor households have a stronger and more effective voice in local community institutions in which they play a role in framing priorities and in holding school providers accountable.

**The School Curriculum:**

Reviews and updates of the curriculum have also resulted in a more relevant and, therefore, more responsive curriculum to stakeholder needs especially gender concerns. A framework for the Early Childhood Development programme has been developed and is in use in the centres. A curriculum Framework to guide both material development and teaching and learning in lower and upper basic schools has been developed and published in 2011. Priority is now accorded to curriculum research to inform policy and practice. Teaching syllabuses are also in place from lower basic to senior secondary levels. The Ministry of Basic and Secondary Education developed a Life Skills Manual in 2008 for Grades 4 to 9 of the lower basic cycle with the support of United Nations Fund for Population Activities (UNFPA) and the World Bank. HIV/AIDS has been mainstreamed into the life skills programme. The Gender Training Manual and Gender Action Pack have been reviewed to ensure gender responsive pedagogy and gender responsive school environment. Moreover,

awareness creation and sensitization activities through platforms such as the weekly televised Education Forum, radio programmes and community meetings have increased public interest and knowledge on girl's education. Finally, the new Education Policy 2016-2030 has made provisions for digitalising the national school curriculum. To this end, students and teachers will use such devices as computers, tablets and mobile phones to facilitate teaching, learning and assessment.

### **Adult and Non-Formal Education (ANFE):**

In a bid to promote participatory approach in NFE service delivery, ANFE Unit collaborates with NFE stakeholders using Public Private Partnership Approach (PPPA). Non-Formal Education targets 15 years and above age bracket with an intention of improving levels of literacy by 50% by 2015, especially for women.

With funding from UNESCO BREDIA, a Road Map for Holistic Functional Literacy Programmes in The Gambia was developed, the ANFE Policy was reviewed, finalised and validated, and a Capacity building workshop for Service Providers and media professionals on documentation of ANFE practices in The Gambia was conducted for fifty Service Providers and media professionals. Moreover, thematic instructional materials for literacy and NFE Programmes was developed, validated, pre-tested and produced and there was training of trainers for its use for ten service providers.

The Community Skills Improvement Project (CSIP) sponsored by the African Development Bank continued to deliver training for women and out of school youths with the view to enhancing self-employment ventures and entrepreneurship development. The project targeted 40,000 women and youth in 250 communities but was able to reach 32,377 (80.94%). The total number of participants who are now classified as literacy graduates is 12,678 representing 32% of the target. The Integrated Functional Literacy Project sponsored by the Islamic Development Bank has designed a curriculum for 400 contact hours for 2000 young men and women and produced didactic materials in the national languages in thirteen subject areas including agriculture, literacy, numeracy, health, nutrition, environment, forestry, life skills, livelihood skills, gender, governance, peace and security and human rights. Facilitators numbering two hundred and sixty five have been trained in the use of

these materials and it is expected that the service providers will use them in their functional literacy classes.

The World Bank is also supporting The Government of The Gambia, through the Ministry of Basic and Secondary Education to implement the Non-Formal Education (NFE) Component in the 3rd Education sector. The program is strengthening the capacity of literacy providers (CSOs, Community Based Organisations (CBOs) and NGOs) in order to develop effective and sustainable literacy, numeracy, life skills and income generating programs. The majority of the beneficiaries of this program are women. The Ministry had started work to integrate NFE statistics into the Education Management Information System (EMIS).

#### **Civil Society Organisations involvement in Education:**

The Ministry of Basic and Secondary Education, has expanded the space for CSO participation in education at all levels ranging from policy formulation, implementation, service delivery, infrastructure development and monitoring and evaluation. For example, as part of its wider stakeholder involvement and participation there is a Local Education Group (LEG)<sup>8</sup> that brings together representatives from ministry's Senior Management Team<sup>9</sup> with those from development partners, civil society organizations, the Gambia Teachers Union (GTU). Main development partners supporting the education sector who are also represented on the LEG are the World Bank, UNICEF, and the World Food Programme (WFP). This has increased public interest and involvement in education leading to a broadening and deepening of participation at all levels by key players such as the Education for All Campaign Network (EFA Net), Action Aid International The Gambia (AAITG), the United Nations Girls Education Initiative - Gambia (UNGEI Gambia), Child Fund, Voluntary Services Overseas (VSO), Peace Corps, Future in Our Hands (FIOH), GAMCOTRAP, SIMMA, Association for the Promotion of Women's and Girls' Advancement (APWGA), Foundation for Research on Women's Health, Productivity and the Environment (BAFROW), Forum for African Women Educationalist-Gambia (FAWEGAM), National Women's Farmers Association (NAWFA), Pro-poor Advocacy Group (Pro-PAG), Gambia Teacher's Union (GTU), Girls Guide Association, Gambia Home Economics Association and Faith Based

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<sup>8</sup> LEG meetings are chaired by one of the stakeholders

<sup>9</sup> The PS education is a member of the LEG

organizations. The Ministry of Education in partnership with UNICEF and FAWEGAM has initiated "Mothers" Clubs," which played a great role in closing the gap between boys and girls in schools by generating income to cover the indirect cost of school fees, give guidance and counselling to families and girls to promote the retention of girls in school and engage in environmental cleanliness of the school.

The partnership with the General Secretariat for Islamic/Arabic Education and the MoBSE has contributed to boosting enrolments and enhanced access particularly for Muslim girls. It has broken the misconception that Muslim girls should not go to school as the Secretariat is not only advocating for girls' education but is actually making provision for them within their educational system. The Government of The Gambia has created an enabling environment for Civil Society Organisations and Non-Governmental Organisations to engage in activities relating to the promotion of education girls and children with special needs in The Gambia. The European Fundraising Association Network (EFA NET) implemented two projects (2006/2008) on inclusive education targeting girls and children with special needs and with support from Save the Children Sweden in collaboration with FAWEGAM, the Child Protection Alliance (CPA) and the Specials Needs Education Unit. Under the 2008 project, A child friendly version of the Sexual Harassment Policy has been developed by MoBSE, GTU, CPA and FAWEGAM with funding from Save the Children Sweden and disseminated to stakeholders.

### **School Enrolment**

It is notable that under the MDGs and its Education for All and the Fast Track Initiative, The Gambia is one of the leading African countries that have met the Millennium Development Goals with respect to primary school enrolment free of charge, as well as gender parity.

Since the last reporting period, in order to promote and safeguard the right to education for all, the Government has constructed more schools with a proximity range of 2 kilometres to provide access to education to every Gambian child.



The table below shows the number of schools by type and year.

Number of ECD Centres					
2013	2014	2015	2016	2017	2018
892	1014	1115	1141	1154	1257

School_Type	2010	2011	2012	2013	2014	2015	2016	2017	2018
LBS	520	525	506	595	657	705	718	758	811
UBS	91	95	100	112	121	138	150	163	188
BCS	158	157	186	194	204	223	240	236	250
SSS	99	100	100	120	134	145	160	171	189
<b>Total</b>	868	877	892	1021	1116	1211	1268	1328	1438

There has also been a notably significant increase in school enrolment at different education levels since the last reporting period. At the Lower Basic cycle, the Gross Enrolment Rate increased from 91% in 2004, 88.3% in 2010 to 92.8 % in 2013, 97.1% in 2014 to 104% in 2016 and 112.7 % in 2018. This includes Madrassa (Islamic religious schools) enrolment, which is now officially recognized. During the same period, the gross enrolment rate for girls increased from 89.1% in 2010 to 116.5% in 2018 and for boys from 87.5% in 2010 to 108.9 % in 2018.

GROSS ENROLMENT RATE LBE			
	M	F	T
2010	87.5%	89.1%	88.3%
2011	85.6%	87.3%	86.5%
2012	89.1%	91.4%	90.2%
2013	91.7%	93.9%	92.8%
2014	95.4%	98.7%	97.1%
2015	99.0%	103.5%	101.2%
2016	101.4%	106.7%	104.0%
2017	105.4%	111.8%	108.6%
2018	108.9%	116.5%	112.7%

For upper basic education, the gross enrolment rate increased from 66% in 2004, 66.2% in 2010 to 68.1% in 2013, 68.1% in 2014 and 68.3% in 2015. There has however been a 1.5% decline in school enrolment rate between the year 2015 and 2016 and an increase from 67.4% in 2017 and 68.1% in 2018. It is worth noting that the period between 2010 and 2018 has witnessed a steady increase in the Upper Basic Gross Enrolment Rate of the girl-child, from 65.6% in 2010 to 71.3% in 2018. There has on the other hand been a fluctuation in enrolment of boys in upper basic education from a gross enrolment rate of 66.9% in 2010 to

65.5% in 2011 an increase between 2012 to 2015 to 66.8% and a slow decline between with 55.9% to 64.8%.

<b>GROSS ENROLMENT RATE UBE</b>			
	<b>M</b>	<b>F</b>	<b>T</b>
<b>2010</b>	66.9%	65.6%	66.2%
<b>2011</b>	65.5%	66.2%	65.8%
<b>2012</b>	66.8%	66.7%	66.7%
<b>2013</b>	68.9%	67.3%	68.1%
<b>2014</b>	68.2%	68.0%	68.1%
<b>2015</b>	68.3%	68.2%	68.3%
<b>2016</b>	65.9%	67.6%	66.8%
<b>2017</b>	65.0%	69.7%	67.4%
<b>2018</b>	64.8%	71.3%	68.1%

<b>PRIMARY COMPLETION RATE LBE</b>			
	<b>M</b>	<b>F</b>	<b>T</b>
<b>2010</b>	73.3%	73.9%	73.6%
<b>2011</b>	71.2%	70.5%	70.9%
<b>2012</b>	73.8%	71.1%	72.4%
<b>2013</b>	73.3%	73.4%	73.4%
<b>2014</b>	73.3%	73.6%	73.4%
<b>2015</b>	72.8%	74.4%	73.6%
<b>2016</b>	74.7%	76.0%	75.4%
<b>2017</b>	77.4%	80.0%	78.7%
<b>2018</b>	79.7%	84.3%	82.1%

Furthermore, Secondary School enrolment has improved from 33.9% in 2010 to 47.8% in 2018 with a steady increment in the enrolment of the girl child from 30.6% in 2010, 39.1% in 2013, and 41% in 2014 and to 49.8% in 2018.

<b>GROSS ENROLMENT RATE SSE</b>			
	<b>M</b>	<b>F</b>	<b>T</b>
<b>2010</b>	37.4%	30.6%	33.9%
<b>2011</b>	37.7%	32.2%	34.9%
<b>2012</b>	39.1%	33.5%	36.2%
<b>2013</b>	41.3%	36.8%	39.0%
<b>2014</b>	43.2%	39.2%	41.2%
<b>2015</b>	42.6%	40.5%	41.6%

<b>2016</b>	44.1%	43.9%	44.0%
<b>2017</b>	44.5%	47.1%	45.9%
<b>2018</b>	45.7%	49.8%	47.8%

It should be noted that the education system has changed since the last reporting period. From the year 2000, the education system has been classified into three levels, namely Lower Basic Cycle, Upper Basic Cycle and Senior Secondary School. Progressive increase in general enrolment at both the Primary and Secondary schools was registered between the years 2010 to 2018.

This increment is reflective of Government's efforts to increase access to education for the girl child and to expose her to better opportunities in life. The Government engages in public sensitization programmes to encourage parents to make educating their female children, in addition to the male a priority. Furthermore, the Gender Training Manual and the Gender Action Pack were reviewed in 2015 to incorporate emerging issues and make teaching and learning in schools more gender responsive.

In addition, The Child Friendly School Initiative (CFSI) supported by UNICEF promotes gender equality in enrolment of the girl-child in school, and eliminating gender stereotypes and disparities.

Furthermore, it provides a healthy and protective environment for children through the provision of adequate water and sanitation facilities and discouraging corporal punishment and harassment. It promotes child-centred learning and encourages family and community-based local partnership to education. The CFSI is a powerful tool both for helping to fulfil the rights of children and providing them an education of good quality. The programme for Improved and Standards in Schools (PIQSS) was introduced as an improvement of the CFSI and emphasised on quality education for all.

### **Tertiary level**

In 2007 both MoBSE and MoHERST continued to implement the national education policy 2004 – 2015 until 2011 when MoBSE reviewed and revised this policy in tandem with its mandate of basic and secondary education while MoHERST developed a new policy for tertiary and higher education (2014-2023) as well as a science, technology and innovation policy (2013-2022). In spite of the difference in

ministerial mandates, a memorandum of understanding (MOU) between MoBSE and MoHERST has been agreed on to partner together in the delivery of education and training using the sector-wide approach.

The Government also invests in capacity building of the educators from basic level to tertiary level of education both within the country and overseas with the objective of providing valuable, high quality education for all.

These education reforms are in accordance with the joint education sector strategic plan (2013 – 2022) to reduce the rate of illiteracy by 50% by 2015 and the Dakar Framework for Action, which promotes the creation of a literate society sufficient to contribute to the socio-economic advancement of the population.

From the 1990s to date, tertiary and higher education in The Gambia has experienced a rapid expansion as a result of persistent increase in demand. This is happening at a time of a global economic downturn which, inevitably, has some negative impacts on the economic performance of the country and, consequently, on the achievement of the objectives of tertiary and higher education. Therefore, it is not surprising that the Government's budgetary allocation for tertiary and higher education has not grown in line with enrolments.

The Government of The Gambia supports a culturally diverse and socially cohesive nation, and believes that all Gambians, regardless of their cultural, linguistic, religious and physical background, should be given every opportunity to participate fully in the development of the country.

The Gambia is home to over 220,000 young people aged between 18 and 25 years. The majority of these youths have high educational aspirations, although these do not always match the outcomes. While some of them experience a smooth pathway into higher education, many do not realise their dreams, thus limiting their opportunities to further education and training.

The rapid increase in the number and variety of tertiary education institutions and the massive increase of enrolment levels remain a major challenge to tertiary and higher education policymakers. Fixing The Gambia's education system to meet the needs of under-educated youth and helping the country produce a well-educated and skilled citizenry and workforce will require a simultaneous strengthening of this level of education. The solution lies in equity-focused reforms of both systems, with specific attention to the relationships and transitions between the educational institutions that constitute these important systems. Fortunately, there are a number of institutions uniquely positioned to address the preparation of this group and to move them to acquire academic and vocational qualifications.

By virtue of the location of most tertiary and higher education institutions in the Greater Banjul Area, students living in this area have a greater chance of accessing tertiary and higher education. Furthermore,

there are regional and gender disparities in access to education, in general and senior secondary school education, in particular, which is the transiting, level to tertiary and higher education.

Equity is also related to affordability. In a country where a significant number live under the poverty-datum line of less than \$1.25 a day, the issue of affording tertiary and higher education becomes more pronounced. It should be noted that the majority of Gambians are farmers, whose incomes are inadequate to support their children at the tertiary and higher education level. The relatively high fees for tertiary and higher education favour the continued admission of children from the highest-income quintiles and, consequently, reinforce the inequalities in society.

The relationship between TVET institutions and higher education institutions requires strengthening in order to create better linkages between occupational courses and other academic disciplines and to further enable students to pursue not only viable careers but also advanced educational goals.

Given the demographic scenarios in The Gambia, the post-secondary population in 2003 was 222,831; this consisted of the age group between 19 and 25. If projected, this population should increase to 290,744 in 2012, 317,704 in 2015 and 368,306 in 2020.

In 2012, the number of students in the final year of secondary education was 40, 533 (19, 227 of which were female), representing a participation rate of 36.2%. Overall, 30.3% completed the secondary school cycle, but this does not necessarily translate to university entrance.

The gender and development course run by the Management Development Institute (MDI) contributes to the availability of a core of people with knowledge and skills in gender mainstreaming thus facilitating gender analysis and gender monitoring in the various sectors. The University of The Gambia (UTG) has introduced gender studies as a compulsory subject. The UTG has contributed in no small measure to the participation of girls at the higher levels of education. In 2008, girls' enrolment constituted 21.58% of the total as compared to 10% in 1999. To give girls and young women a fair chance to participate in education at the tertiary level, programmes such as the access programme run by the University of The Gambia, the RIFT (Remedial Instruction for Female Teachers by The Gambia College and the extra mural classes by The Gambia Teachers Union (GTU).

Additionally, with regards to tackling adverse traditional values, The Government of The Gambia has also taken steps in addressing negative cultural beliefs and practices that affect the rights of women and girls.

The Women's Act 2010 specifically provides under Section 14(3) (e) that it is the Governments obligation to eliminate all forms of discrimination especially all forms of stereotypes and acts of discrimination which perpetrate or tend to perpetrate gender inequality. In addition to the massive nationwide sensitization of grassroots on harmful traditional practices such as Female Genital Mutilation (FGM) and Child marriage, the Women's Act 2010 has been amended to criminalise Female Genital Circumcision in 2016. Furthermore, the Children's Act 2005 was also amended to criminalise early Child Marriage and betrothals in 2015.

#### **ARTICLE 18: PROTECTION OF THE FAMILY RIGHTS OF WOMEN, CHILDREN THE ELDERLY OR AGED AND DISABLE**

Similar to most social institutions in Africa, the family is the source of human and social advancement for the realisation of the full human potential in The Gambia. In light of this, several provisions in the 1997 Constitution of The Gambia provides for the protection of individuals from discrimination and other forms of unfair and inhuman treatment as well as for the promotion of the rights of all persons most notably, women, children and the disabled amongst them. Most of these provisions are progressive in their potential contribution to the protection of social welfare in The Gambia and therefore serve to strengthen the family unit as an institution widely recognised as one of the most fundamental agents of social advancement.

In the past two decades, The Gambia has undertaken measures to address the rights of women and children, the aged and persons living with disabilities and to combat gender based discrimination. Most of these have involved legislative reforms, whereby important laws like the Women's Act of 2010, the Children's Act of 2005, the Trafficking in Persons Act 2007 and the Tourism Offences Act of 2003, Domestic Violence Act, 2013 and the Sexual Offences Act, 2013 have been enacted. These important laws draw on the Constitutional provisions for the protection and preservation of the rights of the family.

Without seeking to provide an exhaustive list of all of these provisions, it is important to identify and further elaborate on the following;

## **1. Family Protection**

### **Constitutional & Legislative Measures**

Section 27 of the Constitution on the right to marry provides that "men and women of full age and capacity shall have the right to marry and found a family based on the free and full consent of the parties".

## **2. Protection of Women & Children**

The Gambia has made significant progress in the promotion and protection of women and children's right. Major development has occurred during the period under review with respect to women and children.

### **A. Women**

#### **Constitutional & Legislative Measures**

- Section 28 of the Constitution on the rights of women provides "women shall be accorded full and equal dignity of the person with men and they shall have the right to equal treatment with men, including equal opportunities in political, economic and social activities".
- In furtherance to the provision of the Constitution, The Gambia, in realisation of its obligation to international conventions, have domesticated both the provisions of the Maputo Protocol 2003 and the United Nations Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) into the Women's Act of 2010 and it is applicable to all women in The Gambia and enforceable in the High Court. Some of the salient provisions of the Act include the right to dignity, access to justice and equal protection before the law, right to moveable and immoveable property, right to freedom of expression, protection from violence, prohibition of discrimination, right to health and health care services, the rights of women in rural communities, right to marry, special protection of elderly women, women with disabilities and women in distress.

#### **Measures Taken for the advancement of Women.**

- The Gambia has taken numerous measures to improve women's status in the political, economic and social life of the country. A specialised Government department called the Women's Bureau

has been set up since 1980 tasked with the responsibility of advising Government on the well-being of women and girls.

- Accordingly, a National Women's Council has been established by the Women's Act 2010. The Council is composed of 65 members with 8 nominated councillors representing the interests of women countrywide. The Act mandates the Council to develop methods for the integration and implementation of gender and women's rights initiatives in all areas of Government activities, to initiate education for all public officers and authorities regarding equality between women and men, examine and study the economic, social and cultural structure of the society and advise the Government on areas where the participation of women should be encouraged and strengthened.
- The Gambia adopted the National Policy for the Advancement of Gambian Women 2010-2020 which focuses on gender as a development concept and the participation of women and men in an equal and equitable manner for economic, political and social development of The Gambia. Furthermore, one of the policy's guiding principles is to take affirmative action to redress historical and traditional forms of discrimination against women and girls in political, education, economic and other social spheres.
- The Women's Act 2010 requires the State to ensure that women are adequately represented in the Judiciary and enforcement organs of the state, it is also a directive principle of state policy to ensure that women are fairly represented and involved in decision-making positions.
- **Paid Maternity Leave:** A very ground-breaking provision under the Women's Act of 2010 deals with maternity. It provides that expectant women are entitled to 6 months maternity leave with all benefits and a further 6 months unpaid leave where they so desire.
- **The Women's (Amendment) Act 2015:** The Government of The Gambia in addressing the need for the protection of women's reproductive health rights amended the Women's Act 2010 to incorporate the prohibition of the harmful traditional practice of Female Genital Mutilation.

### **Policies**

- The Government with the support of its partners has formulated policies designed to mainstream gender in development. The National Policy for the Advancement of Gambian Women (NPAGW) 1999 – 2009 was the main reference point for stakeholders to address the needs and interest of Gambian women with regards to participation, access, ownership and rights for the attainment of a just and equitable society. The NPAGW specifically targeted women and covered 18 thematic



areas which were designed to 'right the wrongs' and to reduce the huge inequalities and inequities between men and women and between boys and girls, due to the patriarchal nature of Gambian society. Success in implementation of the Policy was mixed with some sectors such as education and health doing much better than the other sectors. A mid-term review of the NPAGW in 2006 accorded the Women's Bureau the opportunity to incorporate strategic issues such as rural development, HIV/AIDS and ICT. A major outcome of the key recommendations of the mid-term review of the NPAGW is the formulation of the Gender Policy 2010 – 2020.

- National Gender and Women's Empowered Policy 2010 – 2020, which has been validated at a workshop including all stakeholders, provides a framework for mainstreaming gender in national and sectoral plans and programmes and for monitoring and evaluation. It is expected to accelerate the process of creating a culture of gender equality in all institutions by influencing social change within the family, the community and the nation at large. The policy addresses the following thematic areas:
  - Capacity Building for Gender Mainstreaming
  - Poverty Reduction, Economic Empowerment and Livelihoods Development
  - Gender and Education
  - Gender and Health, Adolescent Sexual and Reproductive Health and HIV/AIDS
  - Gender and Human Rights
  - Gender and Governance
  - Gender and the Government

Other policies and programmes which have mainstreamed gender include:

- The National Population Policy and Plan of Action 2007 – 2011
- The National Health Policy "Changing for Good" 2001 – 2006
- The National Health Policy "Health is Wealth" and the Health Master Plan 2007 – 2020
- The National Reproductive Health Policy 2007 – 2014
- The National Nutrition Policy 2000 – 2004
- The National Education Policy "Rethinking Education for Poverty Reduction" 2004 – 2014 and The Education Sector Strategic Plan 2006 – 2015
- The National Youth Policy 1998 – 2008

- The Poverty Reduction Strategy Paper (PRSP) II, covering the period 2009 – 2010, is built around the attainment of the MDG's and merges all the priorities of the different policies, including internationally agreed Covenants and targets such as the Millennium Development and Education for All Goals.
- The UNDAF 2007 – 2011 jointly implemented by the UN Agencies in The Gambia addresses key priorities of Government in relation to the MDGs such as women's empowerment, the generation and utilization of disaggregated data and gender information, safe motherhood and Reproductive and Child Health (RCH) rights at the national and sub-national levels.
- Gender mainstreaming strategies contained in the Education Sector Strategic Plan, ESSP 2006-2015 are:
  - i. Minimising educational costs, especially for girls
  - ii. Increasing the number of child-friendly school environments
  - iii. Equal gender participation at the Parent Teachers Association (PTAs), governing boards and management levels of schools.

## **B. Protection of Children**

### **Constitutional & Legislative Measures**

- Section 29 on the rights of Children provides that " children shall have the right from birth to a name, the right to acquire a nationality and subject to legislation enacted in the best interest of the children, to know and be best cared for by parents. That children under the age of sixteen are entitled to be protected from economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or be harmful to their or physical, mental, spiritual, moral or social development."
- Section 30 on the right to education provides "all persons shall have the right to equal education opportunities and facilities and with a view to achieving the full realisation of that right; basic education shall be free, compulsory and available to all"

### **The Children's Act 2005**

The Gambia ratified the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child which were domesticated in the Children's Act 2005. This primary aim of the Children's Act is to protect the child.

Other legal instruments for child protection include the Tourism Offences Act 2003, Trafficking in Persons Act 2007, Labour Act 2007 and the Women's Act 2010 and its amendment on the criminalisation of FGM in 2015, The Criminal Code which contains offences and provides penalties for violators and perpetrators.

The Children's Act, defines a child to be a person under the age of eighteen and the Criminal Code prescribes the age of criminal responsibility in The Gambia as twelve. This implies that a person under the age of twelve years is not criminally responsible for any act or omission, except it can be proved that at the time of committing the act, or making the omission, the person had the capacity to recognise that what he or she was doing was wrong.

### **Advancement of Children's Right**

- **Minimising the costs of education:** Scholarship schemes and other incentives are provided to promote girls' education. In the public schools, schooling is tuition free up to Grade 9. The scholarship Trust Fund pays for all the girls from grade 7-12 in Education Regions 3-6. The President's Empowerment of Girls Education Project (PEGEP) pays for all the girls in public schools from grade 7-12 in Regions 1 and 2 and also contributes tuition fees for girls in the private schools. However, these funds are supplemented by regional initiatives and incentives of various types, including special scholarship packages that cover a wide range of costs from fees, uniforms, books to mentoring.
- Equal gender participation in school management is being promoted through the School Management Structures (former PTAs). The School Management Committee (SMC) brings on board people who know the most about the learners and their educational needs, as well as about local values and realities and is the route to more responsive system. It provides the space for community participation and is more equitable as poor households have a stronger and more effective voice in local community institutions in which they play a role in framing priorities and in holding school providers accountable.

- **Access to Education:** Tremendous success has been gained in expanding access to education across all levels. Schools have been brought nearer to homes within 3km-5km from the community. Building schools closer to the homes of the students contributes to providing safety and security for them especially the girls as they have to walk shorter distances to and from the school. In addition they do not have to leave their homes and communities with all the attendant risks. Under the Third Education Sector Project Phase 1, (1998-2006) and Phase 2, (2006-2011) the Ministry of Education was able to build classrooms throughout the country supported by different donors to improve access to quality education for all Gambians.
- Additional resources from the Education For All/Fast Track Initiative (EFA/FTI) have greatly contributed to the provision of additional classrooms and provided the impetus to accelerating access to basic education. It has helped to close the gender gap through the development of appropriate policy, provision of sex disaggregated data and gender information, capacity building of senior management and provided the needed finance to close the funding gap. Generally, resources are more equitably distributed and better utilized for programme implementation.
- **The School Curriculum:** Reviews and updates of the curriculum have also resulted in a more relevant and, therefore, more responsive curriculum to stakeholder needs. The Life Skills Unit of the Ministry of Basic and Secondary Education, developed a Life Skills Manual in 2008 for Grades 4 and 5 of the Lower Basic Cycle with the support of United Nations Fund for Population Activities (UNFPA) and the World Bank. HIV/AIDS has been mainstreamed into the life skills programme.
- Awareness creation and sensitization activities through platforms such as the weekly televised education forum, radio programmes and community meetings have increased public interest and knowledge on girl's education.
- Although The Gambia is yet to legitimise the prohibition of corporal punishment in schools, detention centres and homes, the Ministry of Education has put in place a policy for the supervision of corporal punishment in schools by the Head Master or Mistress.

### **Combating Sexual Exploitation of children**

The main legislations that provide for sexual exploitation of children are The Children's Act of 2005, The Criminal Code, The Trafficking in persons Act of 2007 The Tourism Offences Act of 2003 and the Sexual Offences Act 2013.

In order to ensure rigorous enforcement of these legislative instruments, the Department of Social Welfare has trained law enforcers on these instruments, strengthening their capacity in investigation and interviewing techniques especially for crimes of sexual nature against children. It has also established child rights and protection units within The Gambia Police Force, Gambia Immigration Department and The Gambia Armed Forces and provides continuous capacity development to the officers in these Units.

With support from UNICEF, in 2012 the Department of Social Welfare developed a Child Protection Training Manual for The Gambia Police Force which has been mainstreamed into the training curriculum of The Gambia Police Training Academy. The Gambia Armed Forces also has a similar training manual, developed with support from Child Fund-The Gambia, which is part of the training curriculum of The Gambia Armed Forced Training School.

Similar training Manuals have been developed on Prevention of Gender Based Violence by The Gambia Women's Bureau in 2013 and Prevention of Child Sex Tourism by The Gambia Tourism Board in 2012.

The Gambia Tourism Board also provides routine capacity building on the Tourism Offences Act 2003 for members of the Tourism Security Unit. These initiatives, coupled with the public sensitization on the media and community social mobilization campaigns that the Department of Social Welfare conducts in partnership with civil society organizations are geared towards effective and rigorous enforcement of the legislative instruments.

The Child Protection Alliance, a child rights coalition in The Gambia, in partnership with The Gambia Tourism Board, has from 2010 to date, sensitized 151 stakeholders (taxi drivers, hotel workers, tourist Guides, personnel of the Tourism Security Unit, small scale entrepreneurs) in the Tourism industry on the Code of Conduct of The Gambia Tourism Board for the Protection of Children, the Tourism Offences Act 2003 and the Sexual Offences Act, to ensure greater protection of children from sexual exploitation in tourism.

It has also conducted training for media practitioners on responsible reporting of children's issues in the media and successfully encouraged The Gambia Press Union to adopt in July 2012 a Code of Conduct for Media Practitioners on Reporting Stories Relating to Children.

In December 2013, The Gambia Tourism Board, in collaboration with the Child Protection Alliance, launched an electronic signboard with messages on The Gambia's stance against Child Sex Tourism at the arrival lounge of the Banjul International Airport.

The Department of Social Welfare and Child Protection Alliance, with support from UNICEF, have established five Neighborhood Watch Groups within the Tourism Development Area of Senegambia, in the communities of Bakau, Kololi, Manjai Kunda, Bijilo and Kerr Serign.

These groups, comprising of young people and adults from the communities, raise awareness on child sexual abuse and exploitation issues among community members, identify and mobilize existing community level structures in child rights and protection work at community level, empower and involve communities in addressing protection issues affecting children at community level and report suspected cases to the Police.

Between 2012 and 2016, different information and educational materials have been produced on child protection, in particular on child sex tourism, and disseminated to hotels, other tourism establishments and schools. The Department of Social Welfare has established Multi- Sectoral Community Child Protection Committees all over the country which are promoting rights of children.

The Child Rights Unit of the Ministry of Justice with support from UNICEF has also conducted a number of nationwide trainings for Law Enforcement Officials, District Tribunal Members, Community Leaders and Women Organisations on the legislation protecting women and children.

### **Child Rights Promotion and Protection**

The Department of Social Welfare and the Child Protection Alliance have engaged in series of community mobilization campaigns to promote the rights of children. The Government has created an enabling

environment for Civil Society Organizations working on children issues. Civil Social Organizations such as the Female Lawyers Association, Gambia (FLAG), Child Protection Alliance (CPA) and the Network against Gender Based Violence conduct radio programmes (radio talk shows and phone-in) to promote respect for the rights of women and children. In addition, every year, FLAG carries out sensitizations programmes in various schools and radio stations on the theme adopted for the International Women's day.

The Department of Social Welfare has received support from UNICEF for capacity building of child protection professionals and development of training manuals on child rights and child protection. In addition, the Ministry of Education, in collaboration with UNICEF in 2005, developed a manual with the guidelines on the prevention of sexual offences in Gambian schools.

UNICEF has also supported the Department of Social Welfare to establish and strengthen Community Child Protection Committees in communities across the country, to further the protection of children from all forms of violence and exploitation

In its efforts to effectively combat child sexual abuse and exploitation, the Department of Social Welfare reviewed and updated its National Plan of Action Against the Sexual Abuse and Exploitation of Children 2011-2015 in order to strengthen the protective environment for children. In 2015, the Department of Social Welfare validated the National Protection Strategic Plan and Action Plan with the support of UNICEF and also formed the National Child Protection Sub-Committee to coordinate child protection issues. The Criminal Code also criminalizes any form of sexual activity with children.

All major police stations country wide have now created Child Welfare Units manned by trained Child Welfare Officers to address issues relating to children. The primary function of these units is to deal with minors who are endangered or in conflict with the law in ways which protect their rights. The Police Child Welfare Officers undergo continuous training on juvenile justice and administration, children's rights, inclusive of international standards for the administration of juvenile justice and prevention of juvenile delinquency by the Government under the auspices of the Ministry of Justice, Department of Social Welfare with the collaboration of UNICEF and Civil Society Organisations.

### **Juvenile Justice System**

There are currently three children's courts in the country, located at Kanifing Municipality, Brikama and Basse. These courts apply the 'best welfare principle' or the 'principle of the best interest of the child' in determining all matters and also apply child friendly procedures in the exercise of their function.

The Children's Courts have exclusive jurisdiction to determine all civil and criminal matters concerning a child including adoption, and applications relating to child care and protection and all criminal charges against children, except treason and offences for which a child is jointly charged with an adult.

In accordance with the Children's Act, the death penalty and corporal punishment cannot be imposed on children. Furthermore, imprisonment is used as a last resort, and for the shortest time possible.

Child offenders are also entitled to free legal representation, through the National Agency for Legal Aid. Children in conflict with the law are always separated from adults as required by the Constitution, the Prison Act and Children's Act from the pre-trial to trial stage. Young offenders are always separated from the adult convicts. There has been a separate juvenile wing at Old Jeshwang Prison since 2000.

An After-Arrest Procedure Handbook has also been developed to teach Police officers and social workers at the national and regional levels on the After-Arrest Procedures of child offenders.

### **Employment of Children**

In respect to the engagement of children in employment, in accordance with the Labour Act and Children's Act, children are prohibited from employment in hazardous activities, and from being subjected to activities, that would amount to economic exploitation or exploitative labour. Exploitative labour is defined by the labour Act, as labour that deprives the child of his or her health, education or development.

Children below the age of 16 years are allowed to engage in light work, which is defined by the Labour Act as work which "is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or capacity of the child to benefit from school work." It is forbidden to engage a child to work at night, between 8 p.m. to 6 a.m.

Landmark initiatives aimed at promoting the rights of the child in The Gambia include the amendment of the Children's Act in 2016 to prohibit the practice of child marriage in its entirety with stiff punitive measures to



ensure deterrence. This Act aims to eradicate child marriage and to ensure children below eighteen (18) years are being encouraged to stay in school and complete their education and not to be taken out of school for the purposes of marriage. In addition, parents and community leaders are also being sensitized on the advantages of education and the dangers of early marriage.

Furthermore, as a socially vulnerable group, the growth of the child and attainment of his rights as enshrined in the Children's Act are being addressed in a multi-faceted approach;

- In the area of education, the Constitution provides for the right to equal educational opportunities. The Constitution further provides for free basic education for all and the encouragement of functional literacy. It is also directive principles of state policy to ensure basic education for all citizens and provision of adequate resources so that such tuition for basic education shall be free for all citizens. In addition to the constitutional provisions, the Children's Act also provides for the right to education.

The Gambia education policies 2004–2015 and 2016-2030 aim to promote broad-based education at the basic level for lifelong learning and training and mainstreaming gender in the creation of opportunities for all to acquire literacy, livelihood skills and the utilisation of these skills in order to earn a living and become economically self-reliant members of the community. One of the policy's objectives is to introduce a School Improvement Grant (SIG) in order to make basic education free in all Government and grant-aided schools. A bursary scheme for girls will also be established which will cover the cost of uniforms and stationery especially for girls in the rural area.

As a result of the measures taken to improve literacy and school enrolment rates, an increase has been recorded in the enrolment of girls in lower basic education from with 5.5% per-annum between the years of 2010 to 2015. The Gross Enrolment Ratio for girls increased from 89.1% in 2010 to 103.5% in 2015 with girls now representing over 50% of enrolment in formal lower basic schools. It has also been recorded that the ratio of boys to girls in senior secondary level is 1:1 in senior secondary level.

### **C. Protection of the Elderly**

In The Gambia, It is estimated that the elderly constitute 3.5 percent of the population. Government has made it one of its priorities to protect the rights of the elderly, and improve on their social welfare

However, there is no specific legislation for the protection of the rights of the elderly which is defined in the Women's Act 2010, as a person at the age of sixty (60) years or more. Consequently, the State is enjoined to ensure special protection of the elderly. In Section 54 of the Act, the State is obliged to provide protection to elderly persons and most especially to elderly women and to take specific measures commensurate with their physical, economic and social need. Furthermore, the State must ensure the right of elderly to freedom from violence including sexual violence, discrimination based on age.

Furthermore, a National Social Security policy was formulated in 2011 and validated by all stakeholder in 2014. The elderly are also entitled to the rights protected under Chapter IV of the 1997 Constitution of the Republic of The Gambia. Their rights are also protected by international and regional instruments on Human Rights, ratified by The Gambia. The Pensions Act No.18 of 1950 and Social Security Act No. 13 of 1981 are the other regulations for the protection of the economic, and social rights of the elderly.

#### **Protection mechanisms for the elderly**

- In order to ensure that the rights of the elderly are protected, The National Social Protection Policy which has been approved by Cabinet, contains a number of strategies aimed at improving the welfare of the elderly, such as substantial investment in social protection for the elderly through financial allocation to meet their needs in the national budget, provision of health care services, reproductive care and social services. The National Social Protection Policy has adequately addressed the care needs of elderly person, with measures to strengthen standards and practice for the support of the welfare of elderly persons.
- A National Steering Committee on Social Protection was established in 2011. This committee is chaired by the Office of the President, hosted at the Department of Social Welfare. The committee meets quarterly since 2011 and has so far held four National Consultative Forums. The fact that this committee is chaired by the office of the president is a clear manifestation of the Government's commitment to the rights of the elder in the area of social protection. Training on Social Protection is provided to the members of the committee who are representatives of Inter-Sectoral agencies; with a focus on the socio-economic welfare protection of the elderly.
- The Department of Social Welfare has also increased its financial resource allocation to provide welfare services to the elderly. This has resulted to an increase in service delivery to more destitute elderly persons, in spite of the ever growing demands of such services.

- The Government of The Gambia has also put in place preventive and protection services for the welfare of the elderly person fostering the promotion provision of reciprocal family care for the elderly person. Family strengthening program to support family and care givers of the elderly person in the form of cash transfer is being provided by the Department of Social Welfare and its partners such as Aging with a Smile, Munazamat Al-dawa Al Islamia, Saint Vinci de Paul.
- In addition, Free Residential care services are available for destitute elderly persons. However, it should be noted that residential and geriatric care is optional for them. The Government also offers financial support to home base care services channeled through the Department of Social Welfare.
- Furthermore, the elderly also receive some free health care services, such as free non-communicable disease screening and they also receive mobility aids and assistive devices at no cost. However, for services that require fees to be paid, medical bill waivers for health care services are available for the destitute elderly.
- Other programs aimed at the promotion and protection of the elderly, include, programs to reduce the malnutrition rate among the elderly and sensitization and awareness programs on the welfare of elderly persons.
- There is also ongoing consultation between the Government and various stakeholders for the review of the Pensions Act, 1950 and Social Security and Housing Finance Corporation Act, to reform the existing law regarding Pensions and Social Security Funds. Among the beneficiaries of pensions and social security funds are the elderly who have retired from active employment by virtue of their age. It is intended that the reforms in these legislations will provide better retirement benefits and make access to these funds more accessible and less bureaucratic.
- It should also be noted that, The Gambia has closely knit family settings. The majority of people live in an extended family setting, thus the elderly are most often in the cared for by their family members.

#### **D. Protection of the Disabled**

Section 31 of the Constitution on the Rights of the Disabled provides that “the right of the disabled and handicapped to respect and human dignity shall be recognised by the State and society. That the disabled persons shall be entitled to protection against exploitation and to protection against discrimination; in particular as regards access to health services, education and employment” and “in any judicial

proceedings in which a disabled person is a party, the procedure shall take his or her condition into account.”

Furthermore, Section 54 of the Women’s Act 2010 on the rights of women with disabilities has called on the State to take appropriate measures to ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, profession and vocational training as well as their participation in decision making and to ensure women with disabilities are protected from violence, discrimination including sexual abuse.

The Government ratified the UN Convention on the Rights of Persons with Disabilities and its optional protocol on the 1<sup>st</sup> July 2013 expressing political will to promote and protect the rights of persons with disabilities. There is also a draft Disability Bill under consultation which when enacted shall domesticate the Charter and form part of the laws for the protection of the rights of persons with disabilities and domesticate the Charter.

The Government has developed a Disability Advocacy Strategy to integrate the interests of persons with disabilities in the country’s development agenda. The Government has registered success in this field.

Furthermore, the Department of Social Welfare has devised a mechanism for addressing some of the concerns of PWDs, in collaboration with The Gambia Federation of the Disabled – Disability Employment Services. It has established a Disability Advocacy Strategy and engaged in Media Campaigns for sensitization (community radio programmes, television talk shows and newspaper articles). Furthermore, it has produced a documentary on PWDs in active and productive ventures for advocacy purposes.

Many people with disabilities are being employed in both the public and private sector. The Government through the Department of Social Welfare, has also engaged in disability and equality training and this has been conducted for 12 training institutions and some employers.

Countrywide disability outreach services were provided for Children with Disabilities (CWD) on the occasion of the launching of the State of the World’s Children Report 2013 in collaboration with UNICEF, thereby reaching 365 children across the regions.

The Government has been networking with about 13 partner institutions in order to embrace disability and to include PWDs in their programmes and activities. Provision of services for technical aids and appliances, home visits, counselling and basic psycho-social therapy are also provided.

There is an increasing number of persons with disabilities who are obtaining basic psycho-social therapy. At the Department of Social Welfare, there are currently 450 new clients in addition to the registered 5686 PWDs.

- The Department of Social Welfare has also provided 450 disabled persons with mobility aids (artificial limbs, shoes, walking sticks)
- The Government has established a Steering Committee for the management and supervision of Integrated Educational Programmes in mainstreaming children with visual impairment across the regions and this is ongoing.
- There is also a Joint Advocacy Programme by key stakeholders on inclusive education for children with disabilities and another on Early Childhood Development Programmes.
- Strategic plans on disability are included in the National Development Programme 2018-2021.

Currently a Disability Bill aims to address issues of equality and non-discrimination of disabled persons, special protection for children with disabilities, providing accessibility in all aspects of society for the disabled persons, freedom from torture or cruel, inhuman or degrading treatment or punishment for persons with disabilities, as well as their inclusion in political and public life, amongst others.

### **Social Protection**

- There are a number of social protection programs being implemented in The Gambia. Some of these programs are financed solely by the Government itself and others through the assistance of the international partners.
- A broad range of social protection policy instruments is available to address the multidimensional nature of poverty, risks and vulnerabilities affecting people. The NSPP advocates a social protection system comprised of four components: protective, preventative, promotional and transformative with a broad categorization of social protection measures across these four components.
- The Social Protection Floor (SPF), an important global social protection policy approach is also of relevance to the National Social Protection Policy (NSPP). The SPF defines a basic guarantee of social protection for the entire population, addressing key vulnerabilities that occur throughout the

life-cycle for children, pregnant women and mothers, the working-age population and the elderly. The SPF is anchored in the understanding that people's experience of poverty and vulnerability changes through the life cycle, encompassing five key stages: (i) childhood; (ii) school-aged children and adolescents; (iii) youth; (iv) adulthood; (v) old age. It is comprised of: universal access to essential services (such as health, education, housing, water and sanitation and other services, as nationally defined); and social transfers, in cash or in kind meant to ensure income security, food security, adequate nutrition and access to these essential services.

### **Policy development process**

The Government of The Gambia, with support from UN partners finalised its first-ever National Social Protection Policy (2015-2025). The National Social Protection Steering Committee (NSPSC) was established in 2012 in order to advance the country's social protection agenda and lead preparation and implementation of the policy. The NSPSC is chaired by the Director of the Policy Analysis Unit (PAU) of the Office of the President of The Gambia. The Director of Social Welfare is the Secretary.

As part of the preliminary process it has already been agreed that the following groups would be considered as possible beneficiaries under The Gambia's social protection programs. These are -

- Extremely poor individuals and households
- Vulnerable children
- Elderly
- People with disabilities
- Chronically ill
- Individuals and families affected by HIV
- Vulnerable women and youth
- Refugees and migrants
- Prison inmates and their families.

Potential beneficiaries for an expanded social protection program

The 2010 Integrated Household Survey on Income and Expenditure Poverty Assessment provided the following breakdown of poverty as at that date in the regions:-

LGA		Poverty Rate based on per person per day				Total
		<\$1.00	\$1-	\$1.25-	\$2.00 and	
Banjul	Count	10	13	30	87	140
	Percent	7.1	9.3	21.4	62.1	100.0
Kanifing	Count	214	157	367	685	1423
	Percent	15.0	11.0	25.8	48.1	100.0
Brikama	Count	613	227	367	339	1546
	Percent	39.7	14.7	23.7	21.9	100.0
Mansakonko	Count	123	32	56	60	271
	Percent	45.4	11.8	20.7	22.1	100.0
Kerewan	Count	255	64	118	92	529
	Percent	48.2	12.1	22.3	17.4	100.0
Kuntaur	Count	137	9	20	19	185
	Percent	74.1	4.9	10.8	10.3	100.0
Janjanbureh	Count	172	19	37	33	261
	Percent	65.9	7.3	14.2	12.6	100.0
Basse	Count	216	34	72	59	381
	Percent	56.7	8.9	18.9	15.5	100.0
Total	Count	1740	555	1067	1374	4736
	Percent	36.7	11.7	22.5	29.0	100.0

- **Current levels of social protection spending**

Research has shown that Government social protection and overall expenditure on the social sector is not easy to identify as financing of social protection is not centralized under one budget line. It is allocated in the budget lines of the implementing agencies. Therefore, these figures are likely to be minimal amounts as there are likely to be social protection elements in the budget document that have not been able to be identified<sup>10</sup>.

Chart of Accounts	Activity	Monetary Value
212	Social Insurance Contributions	4,697,000
271	Social Security Benefits	100,343,000
282102	Open Scholarships	32,100,000
282	Other	13,500,000
232142	Wells, Waterholes	46,537,000

<sup>10</sup>Budget Appropriation Report 2014.

	School Feeding Program (2015)	11,000,000
1605	Community Development Services	14,843,000
22213	Employment Promotion	500,000
2703	Skills Centres	1,466,000
2143	Directorate of Social Welfare	4,738,000
Total		229,724,000

### **Program Beneficiaries of the Social Protection**

The following table identifies groups of society who benefit from the current social sector programs.

Category	Standard Health Care	Additional Health Care	Maternity Leave	Paid Sick Leave	Schooling	Educational Assistance	Injury At Work
Employed Persons	Yes	Some	Yes	Yes	Yes	Many	Yes
Informal Sector	Yes	No	No	No	Yes	Many	No
Unemployed	Yes	No	No	No	Yes	Many	No
Disabled	Yes	No	No	No	Yes	Perhaps	No
Those impacted by HIV/AIDS	Yes	Some	No	No	Yes	Perhaps	No
Extremely poor individuals and households	Yes	No	No	No	Yes	Perhaps	No
Vulnerable children	Yes	No	No	No	Yes	Perhaps	No
Elderly	Yes	No	No	No	Yes	N/a	No
Chronically ill	Yes	Some	No	No	Yes	Unlikely	No



<b>Vulnerable women and youth</b>	Yes	Some	No	No	Yes	Perhaps	No
<b>Refugees and migrants</b>	Perhaps	Perhaps	No	No	Perhaps	Perhaps	No
<b>Prison inmates and their families</b>	Yes	Some	No	No	Yes	Probably	No

## **Other Legislation & Institutions for The Protection Of Women And Children**

### **1. The Domestic and Sexual Violence Act 2013**

The Government has taken practical steps to promote and protect the rights of women in The Gambia. The Sexual Offences Act of 2013 amended the law and procedure relating to the trial of rape and other sexual offences. The Domestic Violence Act of 2013 is intended to combat domestic violence, provide protection for the victims of domestic violence particularly women and children as well as enhance women's access to courts and tribunals in cases of domestic and gender based violence. The Domestic Violence Act 2013 and sexual Offences Act, 2013 are fundamental in addressing violence against women and girls. Section 6 of the Domestic Violence Act prohibits all violence against women and girls (including any form of physical, sexual, psychological, or economic harm, suffering or violence) occurring in public or private. Sections 9 and 10 prohibit discrimination of women through words, acts, inactions, omissions, regulations or administrative procedures by public, Government or private enterprise

The Ministry of Justice in collaboration with the Police investigate and prosecute perpetrators of sexual, domestic or of any form of gender based violence.

### **2. Trafficking in Persons Act 2007**

The National Agency Against Trafficking in Persons has its own Investigators and Prosecutors and despite the fact that there are limited prosecutions, preventive measures are being taken by the Agency in collaboration with the Law Enforcement Agencies to stop traffickers.

### 3. Legal Aid:

The National Agency for Legal Aid in The Gambia is responsible for the administration of the grant of Legal Aid in proceedings where persons are in conflict with the law and cannot afford the services of a legal representation as enshrined in the Constitution. The Agency has between 2012 and 2014 provided free legal aid services to over 300 persons women and children inclusive. This is enforcing the provisions in the Women's Act 2010 calling for women entitlement to equal protection and easy access to justice.

### 4. The Network Against Gender Based Violence

In support of Government efforts to ensure effective protection of the rights of women and children there are supporting partners both from the Civil Society Organisations and from Non -Governmental Organisations. The Network Against Gender Based Violence embarks on campaign exercises to raise awareness on the issue of gender based violence and has established the One Stop Centre at the Edward Francis Small Teaching Hospital, which is primarily a centre for the victims of gender based violence. There is also the Shelter in Bakoteh where victims of gender based violence are provided with psychotherapy and counselling.

The combined effects of the above legislations, policies and programmes is to ensure that the fundamental human rights of women, children, the elderly and persons with disability are respected and upheld by all organs of the State.

## **CHAPTER THREE: PEOPLES' RIGHTS**

### **ARTICLE 19: NON-DOMINATION OF A PEOPLE BY ANOTHER**

In furtherance of the preservation of social order, every person in The Gambia is guaranteed equal rights, obligations, opportunities and fundamental freedoms before the law. The Gambia continues to abide by its constitutional obligations in Section 33 of the Constitution by recognising that discrimination is tantamount to domination of a people. The Constitution provides that "all persons shall be equal before the law and that no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or public authority".

A number of laws have been enacted to ensure equality of all persons in all social, economic, political, education and health sectors such as the Health Act, Labour Act, Health Act, Lands (Regions Act), State Lands Act and the Women's Act.

#### **ARTICLE 20 RIGHT OF EXISTENCE AND SELF-DETERMINATION.**

Section 2 of the Constitution of the Republic of The Gambia provides that the sovereignty of The Gambia resides in the people, from whom all organs of Government derive their authority. The people exercise their sovereign will through regular, free and fair elections.

The exercise of right of existence and self-determination was manifested in the recently concluded Presidential Elections of 2016 when the former President lost the elections to Adama Barrow after 22 years rule, when he threatened to rule for life.

The period leading to the 1<sup>st</sup> December 2016 Presidential elections was characterised by deep political and security tension, resulting to clashes between opposition parties and the security forces. Protests were conducted by opposition parties resulting to the death Ebrima Solo Sandeng and the subsequent arrest of the United Democratic Party leader and other senior executive members of the UDP. Censorship of journalists, stifling of information, oppression of the people marred with poor economic conditions led to an upsurge of the peoples' participation during the elections.

Between December 2<sup>nd</sup> 2016 when the results were announced and December 9 2016 when Jammeh back tracked on his acceptance, a political impasse ensued. On December 13<sup>th</sup> 2016, the Chair of the ECOWAS Authority, Johnson Ellen Sirleaf together with President Muhammadou Buhari of Nigeria, led a high-level mission to The Gambia for a meeting with Jammeh and President Elect Barrow with a view to impress upon Jammeh the need to uphold the results of the elections as the will of the people of The Gambia.

The President Elect was duly inaugurated on the 19<sup>th</sup> of January in The Gambia's High Commission in Dakar Senegal. Following the inauguration of President Barrow as the president of the people of The Gambia, President Jammeh finally relinquished his hold on power on 20<sup>th</sup> January and thereafter fled into exile in Equatorial Guinea.

## **ARTICLE 21: RIGHT TO FREE DISPOSAL OF WEALTH AND NATURAL RESOURCES**

Section 22 of the Constitution provides that every person has a right to own property either individually or in association with others and that no person shall be compulsorily deprived of property or any interest in or right over property of any description.

Section 23 provides that no person shall be subjected to interference with the privacy of that person's home, correspondence, communication or other property. However, these rights are subject to the right of Government to acquire land/property for public or security interest after providing adequate compensation and other considerations.

Furthermore, the entire property in and control of all minerals and petroleum in and on or under any land or waters in The Gambia is vested in the State on behalf of the people of The Gambia.

Petroleum resources are administered by the Ministry of Petroleum, with the Minister responsible for approval of licenses to befitting oil companies. The Petroleum Exploration and Production Act, regulates the activities of the operation through the petroleum value chain, from the pre- award to the post-award stage.

Through the enactment of the Local Context Act, GIEPA (Gambia Import Export Promotion Agency) is currently working on a local content framework to address the issues of local involvement. Some of the mandates of the Local Context Act would be to regulate employment of Gambian nationals in the petroleum investment, exploration and production, to have a quota for domestic refining and consumption etc.

The Fisheries Act regulates the type and method of fishing and other activities. It also ensures that there are regulations in place that requires no license to be issued in respect of a foreign vessel unless that foreign fishing vessel is listed in good standing on a regional register of foreign fishing vessels.

In regards to the licensing of foreign fishing vessels, there is a requirement that a local agent is appointed to act on behalf of the owner of that vessel and is also able to accept legal responsibility on behalf of the owner, for any action, juridical or otherwise, taken in respect of that foreign vessel.

The Fisheries Act also gives the Minister responsible for fisheries the mandate to establish community fisheries centers for the purpose of community-based fisheries management. The Minister in establishing a

community fisheries centre takes into account the concerns of communities living within the immediate environs of the area to be declared as a Special Management Area.

When it comes to the granting of mining licenses, the Minister responsible for the administration of the Mines and Quarries Act may refuse to grant a license if he or she is satisfied that it is in the public interest that no more licenses of that type should be on force in at that time. The Minister may also impose conditions to protect the environment of The Gambia and to protect the lawful interests of any other person who has a mineral right.

The Mines and Quarries Act has restrictions with regards to persons to whom mining permits may be granted. Permits are only granted to individuals who have a permanent residence in The Gambia, partnerships composed exclusively of individuals who have permanent residence status in The Gambia, bodies incorporated in The Gambia or a combination of both individuals with permanent residence status in The Gambia and a body corporate incorporated in The Gambia.

If a mining permit is granted, the Minister responsible for the administration of the Mines and Quarries Act, may impose conditions to protect the State's mineral interests, to protect the environment of The Gambia, to ensure the safety of the operations authorized by the permit, and to protect the lawful interests of any other person who has a mineral right.

A prospecting permit which gives its holder the right to prospect in the area specified in the permit for the minerals specified in the permit, does not give the holder an exclusive right to prospect in that area or for that mineral. It also does not give the holder the right to prospect for a mineral in an area where the holder of a mineral right has an exclusive right to prospect for, or mine or quarry that mineral.

If during the course of mining, prospecting or quarrying operations, the rights of the owner or lawful occupier of land are disturbed or crops, trees, building, works belonging to the occupier of land are damaged, the holder of the mineral right by virtue of which operations were carried out shall pay the lawful occupier fair and reasonable compensation in respect of the disturbance or damage. In instances where the amount of the compensation to be paid is disputed, the matter may be referred to the Chief Geologist who shall deal with the matter in accordance with the Mines and Quarries Act.

In June 2018, following the grant of a sand mining licence to a local operator, the community of Faraba were of the view that the license to mine sand given to a contractor, was in violation of their right to land. In

the ensuing protest against the mining activity, members of the Para Military clashed with villagers of Faraba Banta in the West Coast Region of The Gambia leading to the death of three persons. In response, the State has set up a Commission of Inquiry to probe into the circumstances surrounding the grant of the license and leading to the deaths.

## **ARTICLE 22 RIGHT TO ECONOMIC, SOCIAL AND CULTURAL DEVELOPMENT**

Economic development is recognised as a directive state policy in Chapter XX of the Constitution. The Government has taken the following measures to promote economic growth, reduce poverty and improve on the social welfare of Gambians. These include-

### **Poverty Eradication**

The Government has formulated a number of policies and strategies such as Vision 2020, and the Development Strategy and Investment Programme 2012 to 2015, called the Programme for Accelerated Growth and Employment (PAGE), which is the successor to the Poverty Reduction Strategy Programme II (PRSP II). Currently, the National Development Plan (NDP) 2018-2021 serves as Government's blueprint for national development.

The National Development Plan outlines the following eight strategic:

- i. Restoring good governance, respect for human rights, the rule of law and empowering citizens through decentralization and local governance;
- ii. Stabilizing the economy, stimulating growth, and transforming the economy;
- iii. Modernizing agriculture and fisheries for sustained economic growth, food and nutritional security and poverty reduction;
- iv. Investing in people through improved education and health services, and building a caring society;
- v. Building infrastructure and restoring energy services to power the economy;
- vi. Promoting an inclusive and culture-centred tourism for sustainable growth;
- vii. Reaping the demographic dividend through an empowered youth; and
- viii. Making the private sector the engine of growth, transformation, and job creation.

In terms of food security and agriculture, an Agricultural Council has been formed to guide agricultural planning and policy. In addition, The Government enacted the Food Act 2005, to control the production, manufacture, sale, distribution, importation and exportation of food. Furthermore, the Act established the National Nutrition Agency, whose role is to coordinate all nutrition and related activities in The Gambia, coordinate, investigate all matters pertaining to food safety and control. Other measures include the provision of technical support including opportunities for farmers to access long term loans to develop modern farms and development of science parks to enhance the quality of primary produce.

Enhancing social protection by responding to poverty and vulnerability and ensuring a decent standard of living for all Gambians through the reduction of risks and the creation of increased employment opportunities is a national development priority. This is achieved through the execution of policies and programmes designed to reduce poverty and vulnerability by promoting more efficient labour markets and diminishing people's exposure to risk; thus enhancing their capacity to protect themselves against hazards and loss of income.

### **Social and Cultural Development**

Section 32 of the Constitution guarantees the right to culture in The Gambia and the Government has taken several measures to promote and preserve the cultural heritage of its people.

#### **Museums**

Museums are seen as the repositories of material cultural heritage of a people. The presence of museums and their access to the public could therefore be seen as a yardstick for measuring the public's access to the cultural goods.

There are five public and three private museums in The Gambia. The public museums fall under the stable of The Gambia National Museums, and has branches at Wassu, Ker Batch in the Central River Region, in Juffureh in the North Bank Region, and in Banjul. The Public museums are found in Bakau in the Kanifing Area, and at Tanji in the West Coast Region. These museums display cultural and historical items of all the peoples and religions of the country, and some have displays of objects from foreign countries thus making them truly representative and eclectic.

Access to museums by Gambians is enhanced by affordable gate fees. All the museums have robust children's educational programmes including art classes, storytelling sessions in addition to the gallery visits. Children constitute 94 per cent of Gambian visitors to the museums in 2010. Regular art contests help to encourage children to express themselves in drawing, painting, sculpture etc.

### **Festivals**

Despite its small size, The Gambia is a diverse multi-cultural society with many ethnic group and there are a number of Gambian festivals. Some are agricultural in origin having their roots in the land while others are related to the sky above such as the rainmaking festivals involving the women of the village. There is general consensus about the potential for festivals to communicate or affirm the values of Gambia's society and strengthen the bonds between its members.

Whilst there is growth in multi-ethnic expressions, the quest for The Gambia's groups to reaffirm their identities remains. The recent rekindling of celebrations of constituent festivals in Janjangbureh. Dankunku (Maribantang Cultural Festival), Banjul Demba Festival, and Roots Homecoming Festival confirms a cultural revival with specific claims and identities.<sup>11</sup>

These festivals share a commonality of bringing together and uniting participants from all parts of the world, preserving cultural identities and practices.

### **Historical Sites**

The Gambia has two UNESCO World Heritage Sites of James (Kunta Kinteh) Island, and the Stone Circles. The merits of these sites and details on other Gambian heritage and cultural sites are well enunciated in the National Centre For Arts and Culture, NCAC website. Pictures, video and interactive programmes make the website quite useful and accessible.

### **Oral Archives**

The oral archives of the NCAC houses 5000 cassettes and tapes of the oral history of all Gambian peoples and regions. It is a definitive repository of our collective memory and identity. It is open to historians and other researchers from all over the world.

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<sup>11</sup> Access Gambia



Although culture is not formally taught in The Gambia, arts form part of the school curricula from the lower basic cycle to the secondary level and examination by the West African Education Council (WAEC). In the lower basic cycle students receive instructions in the Creative and Performing Arts and Handicraft. Arts and craft, Sculpture and technical drawing are offered at the upper basic cycle, and Arts, technical drawing, and Home Economics are available at the secondary level. Private groups and institutions also perform plays, both for stage and television and some films have been produced featuring Gambian actors.

The Gambia Copyright Act of 2004 provides protection of copyright for literary work, artistic work, musical works, sound recordings, audio visual works, choreographic works, derivative works listed under the Act, and programme – carrying signals. The Act also protects by copyright an expression of folklore “against reproduction; communication to the public by performance; broadcasting, distribution by cable or other means; and adaptation, translation and other transformation, where the expression is made either for commercial purposes or outside a traditional or customary context.”

The Act also protects the right of the population to benefit from cultural expressions and enjoy their cultural heritage.

#### **ARTICLE 23 RIGHT TO NATIONAL AND INTERNATIONAL PEACE AND SECURITY AS AFFIRMED BY THE CHARTER OF THE UNITED NATIONS AND AFRICAN UNION.**

The Gambia is party to various international instruments at multilateral, bilateral and sub-regional levels. The Gambia has also continued to play an important role in peace and security in the region through contributions of peace keeping troops to UNMID in Darfur, and ECOMOG in Liberia and also East Timor, Central African Republic among other nations.

It has also provided safe refuge for refugees from neighbouring countries such as Sierra Leone, Guinea Bissau, Liberia and Senegal.

According to the 2017 Global Peace Index, The Gambia has fallen 18 places since 2016 and is among the top five countries to have experienced the largest deterioration of an ongoing conflict situation. Despite the country's fragile socio-economic and political climate, in 2017 The Gambia peacefully transitioned to a new political authority through democratic means. On 1 December 2016, Gambians took to the polls and replaced then-president Yahya Jammeh with the current president, Adama Barrow.

Furthermore, it is important to note that The Gambia is a party to UNSCR 1325 which calls on peace keeping operations to incorporate a gender perspective in all their work and the maintenance of gender equality at all levels of the entire mission. In line with this obligation, Gambian women security personnel have participated in a number of peace-keeping missions both in and outside the region.

The Government of The Gambia continues to implement programmes and initiatives aimed at ensuring the full participation and representation of women in peace processes; including the prevention, resolution, management of conflicts and post conflict reconstruction.

The Gambia National Action Plan (GNAP) on the United Nations Security Council Resolution 1325 adopted in 2012 continues to guide Governments efforts to ensure the full and effective participation of women in peace processes. The GNAP focuses on three main pillars: Prevention, Protection, and Participation. Under each of these pillars, strategic issues have been developed for the realization of each relevant article under the UNSCR 1325 as it affects the national context of The Gambia.

The new Government has taken deliberate steps, to further ensure that The Gambia continues to enjoy and maintain its position, as one of the most peaceful countries in the world.

#### **ARTICLE 24: ALL PEOPLE SHALL HAVE THE RIGHT TO A GENERAL SATISFACTORY ENVIRONMENT FAVOURABLE TO THEIR DEVELOPMENT**

Two primary pieces of legislation have been enacted for the purpose of securing the Right to Satisfactory Environment in The Gambia. The National Environment Management Act 1994, Section 39 specifically addresses pollution, and the Environmental Protection (prevention) of Dumping Act 1988, specifically prohibits dumping of toxic waste in The Gambia.

There are also several other related Acts that have been enacted to compliment the primary Acts and these include the Hazardous Chemicals and Pesticides Control Management Act, 1994 and the Anti-Littering Regulation 2007 to regulate the indiscriminate dumping and littering of liquid and solid waste in public, and the Environmental Impact Assessment Regulation 2014 to regulate and categorise impacts of development projects, both public and private. The regulation puts into perspective the social, economic as well as

environmental impacts of projects on the indigenous people and gives them the power to participate in the assessment and decision-making process.

In addition, The Gambia has various existing Government policies on environment protection such as the Fisheries and Water Resources Policy, The Gambia environment action plan 2008- 2018 and the Agricultural and Natural Resources Policy 2015 that is currently under review.

There has also been developed the Environmental Discharge Permit Regulations, 2001, which sets out the guidelines for the acceptable procedures for the discharge of waste, the Environmental Impact Assessment (EIA) Guidelines, and procedures booklet, indicating the EIA process for all project developers in The Gambia.

Additionally, The Gambia has also signed and ratified several International and regional instruments in particular the Basel Convention and the Bamako Agreement that are geared towards protecting against trans-boundary movements of hazardous wastes and their disposal. Furthermore, The Gambia has also ratified the Stockholm Convention to address the issue of Persistent Organic Pollutants (POP) that remain in the environment for prolonged periods and are hazardous to human health and the environment. Relevant stakeholders have been engaged to discuss domestication and implementation of these conventions.

An autonomous statutory body, the National Environment Agency (NEA) has also been established for the purpose of ensuring that the environment is protected from degradation and exploitation of natural resources. Some of the goals of the NEA include the following; to ensure an environmentally sustainable economic and social development in The Gambia, to have a legal recognition of the fundamental right to a sound environment, ensuring the health and wellbeing of all those living in The Gambia. The NEA also has locus Standi before the courts, to prosecute cases involving environment degradation or pollution.

The Government through the NEA has also made great strides in waste management and control. This institute is mandated by the National Environment and Management, Act to ensure that the environmental management legislations are enforced.

The NEA also enforces the Hazardous Chemical and Pesticides Control and Management Act 1994 which ensures that all pesticides and hazardous chemicals are registered and licenses are issued to all suppliers.

The NEA has been implementing measures for scientific and effective disposal of waste locally produced. These measures include, inter alia, identification of waste disposal sites in all regions of the country, the introduction of a permitting system for private waste collectors and those entities engaged in processes resulting in waste disposal into the environment, mapping and documentation of all illegal dumpsites in the country, particularly those situation within water ways and have potential for floods. It is also noteworthy to state that the country, through collaboration with international partners under the framework of Basel Convention undertook a national cleanup of obsolete pesticides and chemicals for shipment abroad to be destroyed in 1999. Also, courtesy of similar international collaboration, all major health facilities benefited from a scheme that provided incinerators to address the issue of medical waste.

Although The Gambia does not manufacture pesticides or chemicals they are imported and used in reasonably large quantities mainly by the agricultural sector. The challenge faced by the NEA is the prevalence of large quantities of obsolete stock, which can only be addressed through collaboration with international partners as highlighted in the case of the national cleanup of obsolete pesticides and chemicals under the Basel Convention. Notwithstanding, the NEA ensures regular monitoring and where necessary, confiscate obsolete products and bring them to a central storage facility to avoid associated risks. The permitting system on waste producing entities as well as private collectors continues.

Capacity building programmes for the stakeholder institutions, especially local councils are also ongoing. The Councils are being encouraged to come up with their own waste management strategy to address the unique realities in their respective area. In addition to the instituted permitting system, the NEA ensures that projects with potential environmental impacts, including waste, undergo a rigorous environmental study and obtain approval prior to implementation. For efficiency and effectiveness, The Gambia is working on an overarching legal framework specifically on waste management in the Draft Waste Bill.

The Government of The Gambia, through NEA has set apart certain days, commonly referred to as “Set Settal” on which it is mandatory, that members of every household must clean their environment. This is to encourage the society to be conscious of their duty of maintaining, a clean and healthy environment.

The NEA has so far made great strides in enforcement of laws relating to proper waste management, public sensitization for environmental protection from degradation and pollution, encouraging the communities to engage in afforestation, and other activities for safeguarding the environment.

Over the past years, The Gambia's efforts to ensure access to safe drinking water have been effective. As at 2018 it is estimated that 72 % of the population have access to safe and clean drinking water as per water quality data collection results. A MICS 6 survey has recently been concluded and once published it is expected to provide updated information on the percentage of people having access to clean and safe drinking water. The progress of sanitation depends on adequate quality water and reliable electricity supply.

The Government's plans in this area also include improvement of operation and maintenance of water and sanitation facilities and governance of water resources and capacity building by training more engineers and managers. The objective is to increase equitable access of the entire population, particularly in the rural areas, to safe drinking water and sanitation services.

Meanwhile, the Government ensures that water services are affordable for everyone through the monitoring role of the Public Utilities Regulatory Authority (PURA) mandated to monitor, regulate and approve unit costs in consultation with the general public.

Massive sensitization and awareness-raising campaigns have also been undertaken by Local Government Authorities to inform the population on the hygienic use of water and minimizing water wastage.

### **Challenges**

Despite the NEA's efforts to raise awareness through public sensitizations on environmental protection, there is still inadequate public awareness on environmental protection and preservation. Failure to adhere to environmental protection measures was seen in the case of Golden Lead which was fined for failing to build a waste water treatment plant within its factory before discharging into the sea. In a similar case of Hassim Factory, fishmeal factory was ordered to suspend operations pending the building of adequate wastewater treatment facility.

Additionally, there is inadequate infrastructure for waste management in urban and peri-urban areas. There is low investment for waste management by Municipalities who are principally responsible for management of dumping sites in their various municipalities and inadequate expertise of officers

responsible for waste management. The NEA however continues to provide support through the municipalities in terms of advice on the proper management of facilities and provides waste handling and cleaning tools to the Municipalities.

Notwithstanding, efforts have been made to address some of these challenges. One in particular is the Waste Management plan promulgated by the Kanifing Municipal Council (KMC) with a component that deals specifically with the Bakoteh dumping site. A short-term plan has been created to manage the disposal of waste at the site and the creation of access roads inside the dumping site. Security posts have also been erected to serve as a deterrent to individuals from walking into the dumpsite and lighting fires. The fire service has also been engaged to put out fires to reduce the emissions from the dumpsite. Due to lack of resources, it is also the KMC's plan to outsource management of the Bakoteh dumping site similar to what has been achieved for five communal dump sites, to eligible companies that have the necessary resources for waste management, to create access roads and a lighting system for ease of access to the dumping site.

Nineteen (19) illegal dumpsites have also been cleared within the KMC area and it aims to ensure the entire KMC area is cleared of illegal dumpsites by August 2018.

## **CHAPTER FOUR: SPECIFIC DUTIES**

### **ARTICLE 25- DUTY TO PROMOTE HUMAN RIGHTS**

Civic Education in The Gambia is perceived as a process through which the citizenry acquires knowledge, skills and values that are needed for effective democratic citizenship. Based on the perceived need to promote the civic consciousness of the citizens, the 1997 Constitution of the Republic of The Gambia (chapter XVII, Section 199(1)) provides for the establishment of a Civic Education Programme.

Correspondingly, the **National Council for Civic Education (NCCE)** was created as an independent non-partisan body to design and co-ordinate Civic Education programmes and to sensitise, inform and educate the citizenry, particularly those at the grassroots, of their rights and responsibilities. The mandate of the National Council for Civic education as enshrined in Section 199 of Chapter 17 of the Constitution of the Republic of The Gambia is to create and sustain within the society awareness of the principles and objectives of the Constitution as the fundamental law of The Gambia.

The NCCE also continuously conducts human rights awareness sensitization in the schools. The school meetings have increased awareness of students on Civic Education as well as their fundamental rights and responsibilities.

About 8000 people from 157 communities nationwide were also sensitized on their fundamental human rights as stipulated in the 1997 constitution, the Women's Act 2010 and the Children's Act 2005.

### **Support from Independent Partners**

The United States Embassy regularly sponsors workshops for members of the Armed Forces on international humanitarian law; UNICEF is at the fore-front in assisting Government's efforts to raise public awareness and that of social workers, the police and members of the Children's Court on the rights of the child; UNDP provides valuable assistance to Government's drive to increase access to justice with resources to establish institutions such as the Alternative Dispute Resolution Secretariat (with regional Centres) and the National Agency for Legal Aid, and to train officials of those institutions; the Development Fund for International Development (DFID) of the U.K. Government has over the years assisted both the Ministry of Justice and the Judiciary in conducting training workshops for Lawyers, Judges, and Magistrates. Other public officials are regularly sensitised on human rights issues relative to their sectors. Symposia on the benefits of education, particularly of the girl child, are organised by the Ministry for Basic and Secondary Education in cooperation with The Gambia Teachers Union, UNESCO and NGOs like Concern Universal and Female Lawyers Association of The Gambia (FLAG).

**The right to life-** This is guaranteed in the 1997 Constitution of The Gambia as a fundamental human right from which no derogation is permitted even in time of public emergency, which threatens the life of the nation. However, The Gambia still has the provision of the death penalty.

**Torture-** The prohibition of torture, inhuman or degrading punishment or other treatment is absolute in that even in situations of public emergency this provision is non-derogable. Although the Constitutional prohibition of torture is not yet supported by the creation of a specific offence of torture under the country's criminal law, the offences in the Criminal Code such as threatening violence, common assault, assault causing actual bodily harm, assault causing grievous bodily harm and laws and regulations such as the Judges Rules and the Evidence Act 1994 have also been put in place to give effect to and prohibit the practice of torture.

**Right to liberty and security of person-** The Gambian Constitution guarantees “every person” the right to liberty and security of person. This means that the right to personal liberty and security of the person is applicable to all deprivations of liberty, whether in criminal cases or in other cases such as, mental illness and immigration control. It is prohibited under the Constitution to subject anyone to arbitrary arrest or detention and no one is to be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law.

The Constitution provides further that any person who is arrested or detained shall be informed as soon as is reasonably practicable and in any case within three hours (3), in a language that he or she understands, of the reasons for his or her arrest or detention and of his or her right to consult a legal practitioner. Persons who are arrested or detained for the purpose of bringing them before a court in execution of the order of a court or upon reasonable suspicion of them having committed, or being about to commit a criminal offence must be taken to court within seventy-two hours (72) as required by the Constitution.

**Freedom of speech-** The Gambian Constitution guarantees every person’s “freedom of speech and expression, which shall include freedom of the press and other media; freedom of thought, conscience and belief, which shall include academic freedom; freedom to petition the Executive for redress of grievances and to resort to the Courts for the protection of his or her rights.”

In December 2017, in line with the Paris Principles, a National Human Rights Commission Act was enacted by the National Assembly for the promotion and protection of human rights in The Gambia. Subsequently, measures are being taken to set up the Secretariat of the Commission and the recruitment of Commissioners. The present Government has committed itself to full realization of the fundamental human rights of all persons in The Gambia. To this end, the Government is undertaking key constitutional and legal reforms to bring our laws in harmony with our international obligations.

In order to prevent acts of torture in places of torture and arbitrary detention, The Gambia Police Force, National Intelligence Agency and The Gambia Prisons Services in partnership with human rights organisations such as the Institute for Human Rights and Development in Africa continue to train its officials and senior management on best practice standards on human rights best practices. The Prison Fellowship has also undertaken a nationwide visit to all its detention centres.



The Police Force has also developed a human rights training manual and also have a Human Rights Unit conducting advocacy, monitoring human rights adherence of the force. The Unit also receives complaints of human rights abuses by its officials and currently receives on average four complaints per day.

Continuous sensitization workshops and trainings have been conducted for prison officials on prison management systems and human rights in general and the prevention and prohibition of torture has been a wide topic of discussion in these trainings.

A National Women's Council has been established by the National Women's Council Act 1980 amended in 2010. The Council is composed of 65 members with 8 nominated councillors representing the interests of women countrywide. The Act mandates the Council to develop methods for the integration and implementation of gender and women's rights initiatives in all areas of Government activities, to initiate education for all public officers and authorities regarding equality between women and men, examine and study the economic, social and cultural structure of the society and advise the Government on areas where the participation of women should be encouraged and strengthened. Some of the salient provisions of the Act include the right to dignity, access to justice and equal protection before the law, right to moveable and immoveable property, right to freedom of expression, protection from violence, prohibition of discrimination, right to health and health care services, the rights of women in rural communities, right to marry, special protection of elderly women, women with disabilities and women in distress.

Section 28 of the Constitution also provides for the right to equal treatment with men, including equal opportunities in political, economic and social activities. Section 33 of the Constitution also prohibits discrimination *inter alia* on the basis of gender.

In addition to the Constitutional and legislative measures, The Gambia adopted the National Policy for the Advancement of Gambian Women 2010-2020 which focuses on gender as a development concept and the participation of women and men in an equal and equitable manner for economic, political and social development of The Gambia. Furthermore, one of the policy's guiding principles is to take affirmative action to redress historical and traditional forms of discrimination against women and girls in political, education, economic and other social spheres.

Prosecutors, law enforcement agents including prison wardens have started receiving human rights training in various aspects such as investigations, prosecutions, and through the assistance and support of local and international NGOs such as the International Senior Lawyers Project, the International Institute for

Democracy and Electoral Assistance (IDEA), and the Institute for Human Rights and Development in Africa (IHRDA) among others. This training will be a continuing exercise.

## **ARTICLE 26: DUTY TO GUARANTEE INDEPENDENCE OF COURTS**

**State Parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institution entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.**

The Constitution of The Gambia provides that Judges and other judicial officers, in the exercise of their judicial functions shall be independent and only subject to the Constitution and the laws of The Gambia. This is in recognition of the fact that the right to a fair trial, is only possible with an impartial and independent judiciary.

In the past, the existing legal framework clearly provided for the independence of the Judiciary but in practice there was much interference from the executive branch of Government. This was due to the autocratic regime The Gambia had. There was no job security for Judicial Officers as they could be fired without adherence to due process, if their judgments were deemed to be against the interest of the executive. Furthermore, Judges were strongly persuaded to interpret the laws in accordance with the wishes of the executive.

However, since 2017, the Judiciary of The Gambia has undergone several structural and administrative reforms to enhance the dispensation of justice. This began with the appointment of a Jurist of international repute in the person of Justice Hassan Jallow, the former Chief Prosecutor of the International Criminal Tribunal for Rwanda. From January 2017 to date, the capacity of the Judiciary has been greatly enhanced with the appointment of 12 new Judges of the High Court, Court of Appeal and Supreme Court. Fundamentally, the appointment of 5 Justices in the Supreme Court has made the court functional after a three-year hiatus due to a lack of quorum.

The new Chief justice has instituted a number of measures to ensure the independence and impartiality of the judiciary such as-

- (a) The reconstitution of the Judicial Service Commission and the restoration of their Constitutional powers in relation to the appointment of Judicial officers, their disciplinary control and removal;
- (b) The appointment of Judicial officials on pension, instead of the contract appointments that were the order of the day previously;
- (c) The exercise of budgetary autonomy;
- (d) the abolition of the system of contract judges;
- (e) upgrade of the incentives and terms and conditions for Judicial Officials to attract more Gambian legal experts to the Bench;
- (f) the establishment of a Communication Unit to provide access to information and raise awareness about the Judiciary and what it offers to the public;
- (g) establish additional courts in the region, such as the Children's Court in Brikama and Basse;
- (h) establish three new Cadi (Sharia) Courts to increase access to those courts and to reduce the backlog of cases.

Currently, there are Twenty-Four (24) judges, Forty-Two (Magistrates) Magistrates and twenty-seven (27) Cadis. In order to promote gender parity within the Judiciary, of the twenty-one (21) Judges, nine (9) are female and of the thirty-eight (38) Magistrates more than 50% are Female.

In its effort to ensure the continuous access to justice, the Judiciary of The Gambia with the support from UNDP prepared a compendium of the Sharia law relating to marriage divorce and inheritance. The main purpose of this document is to ensure that all laws relating to the personal laws of Muslims as provided for in the Constitution of The Gambia, could be easily accessible. This compendium has been most useful particularly to Muslim women who sought redress from the Cadi (Sharia) courts.

In a bid to further ensure access to justice, the Judiciary with the support of UNDP prepared rules of procedure for The Cadi Appeals Panel and the Cadi Courts which were hitherto unavailable and training was provided for all Cadis on the application said rules of procedure in their respective courts. There is now a prescribed procedure in these courts which not only ensure order in procedure but gives litigants the

confidence to access these courts with the expectation that like the conventional courts they too can get justice in these courts.

There is a gradual integration of the District Tribunals into the formal judicial system and training of their clerks and scribes are ongoing

With support of UNDP operational manuals for the Sheriff Division and the Office of the Registrar have also been put in place to avail members of the public the necessary information required on how these offices work and what is expected of them. In addition to this the manuals also ensured that the holders of these offices know and are continuously trained on their roles and responsibilities are in the provision of the services required of them.

## **PART B: IMPLEMENTATION OF THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA**

### **A. Applicability of the Protocol**

In July 2003, the African Union Assembly adopted the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (hereinafter referred to as the Protocol). The Gambia ratified the Protocol on the 25<sup>th</sup> of May 2005.

This is the initial report of The Gambia under the Protocol and captures the period 2005 to 2014 and is submitted in accordance with article 26 of the Protocol as read with the Guidelines for State Reporting issued by the African Commission on Human and Peoples' Rights.

In accordance with these Guidelines, this report reflects legislative and other measures taken by the Republic of The Gambia for the full realization of women's rights as recognized in the Protocol.

The Gambia did not make any reservations to this Protocol.

The Gambia's initial report on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa was developed through a consultative process between the Government, civil society, women's right organizations and donor partners and was collated under the guidance and supervision of the Attorney General's Chambers and Ministry of Justice.

### **B. Background Information**

#### **i. The Constitution**

The Constitution of The Gambia which is the supreme law of the land contains provisions to guarantee equality and non-discrimination among all persons. Under Chapter IV, Section 17 provides for the protection of the fundamental human rights and freedoms of all persons in The Gambia irrespective of colour, race, gender, language, religion, political or other opinion, national or social origin, property birth or other status.

Section 28(1) and (2) provides for the promotion and protection of the human rights of women by providing that “women are to be accorded full and equal dignity of the person with men as well as having the right to equal treatment with men, including equal opportunities in political, economic and social activities”.

The Constitution also makes general provisions for the protection of the right to life, personal liberty, and protection from slavery and forced labour, inhuman treatment and deprivation of property.

#### **ii. The Women’s Act 2010**

The Protocol to the African Charter on the Rights of Women in Africa has been domesticated through the Women’s Act 2010. Since its enactment, the Act has been invoked in a number of court cases. For instance, in 2011, Section 43 of the women’s Act 2010 was invoked “in the case of *Matty Faye v Dawda Jawara* where the applicant was able to obtain a declaration from the court that she is entitled to an equitable share of her matrimonial property, based on the substantial contribution in the development of the property, even though the property was in the name of her ex-husband.”

#### **iii. Other Domestic Legislations**

The Government has also enacted laws for the protection and promotion of women’s rights in The Gambia such as The Domestic Violence Act of 2013, which protects women from all forms of violence in domestic setting, and the Sexual Offences Act of 2013 which criminalises all forms of sexual violence against women. In 2015, the Women’s Act was amended to prohibit and criminalise Female Genital Mutilation or circumcision.

#### **iv. Budgetary resources of the national machinery**

The Government of The Gambia provides yearly contributions/support to Local Organizations under the platform of the Ministry of Women’s Affairs. In addition, quarterly sitting allowances are provided by the Government for Women’s Councillors.

#### **Steps taken to close the gap in gender budgeting in key Government Ministries**

A number of advocacy and capacity building workshops on Gender Responsive Budgeting (GRB) for Cabinet Ministers, National Assembly members, Permanent Secretaries, Directors of

Parastatals and Local Government Executives have been organised by the Government in partnership with international partners.

The major goal for Gender Responsive Budgeting is to ensure that the budget becomes gender focused, i.e. to ensure that gender issues are included from the beginning of planning stages to the budget which is now approached under the Programme for accelerated Growth and Employment (PAGE) 1 and II. Gender Responsive budgeting is recognized in Gambia as an effective measure in creating gender equality and empowerment for socioeconomic development. The Directorate of planning at MOFEA is committed to oblige sectors to include gender in their sector policies, plans, programmes and budgets.

## **PART C: SPECIFIC PROVISIONS OF THE PROTOCOL**

### **THEME ONE: EQUALITY / NON-DISCRIMINATION**

#### **1.1 Elimination of discrimination.**

##### **The Constitution**

As highlighted above, Section 17 of the Constitution provides for the protection of the fundamental human rights and freedoms of all persons in The Gambia irrespective of his or her colour, race, gender, language, religion, political or other opinion, national or social origin, property birth or other status.

##### **The Women's Act 2010**

After a comprehensive review of national laws and policies, The Women's Act 2010 was enacted as a milestone gender equality legislation, incorporating and domesticating all the legal provisions of the National Policy for the Advancement of Gambian Women and Girls, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

The Act defines discrimination against women as "any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life".

The Act is divided into 12 parts:

- Part one deals with interpretation;
- Part two specific rights for women in the 1997 Constitution;
- Part three deals with Government commitment;
- Part four deals with temporary special measures;
- Part five prohibits discrimination in employment, family responsibilities and work;
- Part six deals with education and training of women and girls;
- Part seven deals with health and reproductive rights of women;
- Part eight deals with the plight of rural women and addresses their strategic needs such as land, credit and empowerment;
- Part nine deals with the sanctity of marriage and family life, e.g. monogamy, polygamy, inheritance;
- Part ten deals with additional rights such as participation in peace processes, food security, sustainable development, positive cultural participation, rights of elderly women, women with disability, women in distress, etc.;
- Part eleven deals with women and institutional mechanism, e.g. strengthening the Bureau and Council through capacity building, providing resources and identifying sources of funding, procedures and practices for proper administration; and
- Part twelve deals with miscellaneous procedures, periodic reviews, and penalty for offences, etc.

## **1.2 Access to justice including legal Aid and training of law enforcement officials**

Section 7 of the Women's Act provides that every woman is entitled to equality and justice before the law and to equal protection of the law. In fulfilment of this right, the Act provides for legal aid to ensure protection and promotion of women's rights.

The National agency for Legal Aid in The Gambia is responsible for the administration of the grant of Legal Aid in proceedings where persons are in conflict with the law and cannot afford the services of a legal representation as enshrined in the constitution. The Agency embarks on Regional Mobile Aid Clinics in different parts of the country to offer legal support to indigent Gambians as well as legal representation in the courts of law in criminal matters in any court, police station or prisons. Although the Agency has the mandate to handle civil cases, due to constraints, it is yet to handle any civil case. Under the Women's Act 2010, every woman is entitled to equal protection and access to justice.



The Agency has opened four legal aid centres in the rural areas. The Basse (the Upper River Region) and Farafenni (North Bank Region) centres which were previously established are materially equipped and sufficiently staffed. The West Coast Region and Central River Region centres are in the process of being established.

The Female Lawyers Association of The Gambia (FLAG) in addition to the pro bono legal services provided to disadvantaged women also embarks on various trainings, advocacy, sensitisation on various laws, legal clinics and awareness campaigns on different issues relating to women and their legal rights. Female Lawyers Association The Gambia (FLAG) is implementing legal empowerment initiatives that enable women to be active participants in using the law. These interventions include the provision of legal aid, capacity building and human rights awareness trainings.

### **1.3 Political participation and decision making**

The Gambia has taken a number of measures to improve the role of women in the political, economic and social life of the country. A specialised Government department called the Women`s Bureau has been set up since 1980 tasked with the responsibility of advising Government on the well-being of women and girls.

Similarly, a National Women`s Council has been established by the National Women`s Council Act 1980, as amended in 2010. The Council is composed of 65 members with 8 nominated Councillors representing the interests of women countrywide. The Act mandates the Council to develop methods for the integration and implementation of gender and women`s rights initiatives in all areas of Government activities, to initiate education for all public officers and authorities regarding equality between women and men, examine and study the economic, social and cultural structure of the society and advise the Government on areas where the participation of women should be encouraged and strengthened.

Section 28 of the Constitution also provides for the right to equal treatment of women, including equal opportunities in political, economic and social activities. Section 33 of the Constitution also prohibits discrimination on the basis of gender.

In 2010, The Gambia also enacted the Women`s Act which is dedicated to the advancement of the rights and welfare of women. Some of the salient provisions of the Act include the right to dignity, access to

justice and equal protection before the law, right to moveable and immoveable property, right to freedom of expression, protection from violence, prohibition of discrimination, right to health and health care services, the rights of women in rural communities, right to marry, special protection of elderly women, women with disabilities and women in distress.

The Government and its partners have designed a series of interventions to achieving gender equality and women empowerment to allow for women to participate in decision making and political processes on an equal footing. In addition to the Constitutional and legislative measures, The Gambia adopted the National Policy for the Advancement of Gambian Women 2010-2020 which focuses on gender as a development concept and the participation of women in an equal and equitable manner, for economic, political and social development of The Gambia. Furthermore, one of the policy's guiding principles is to take affirmative action to redress historical and traditional forms of discrimination against women and girls in political, education, economic and other social spheres.

The Women's Act 2010 requires the State to ensure that women are adequately represented in the judiciary and law enforcement organs of the state. It is also a directive principle of state policy to ensure that women are fairly represented and involved in decision-making positions.

Notwithstanding the above policy and legislative interventions, it is disappointing to know that currently only 2 out of 20 Cabinet Ministers are women. At the National Assembly, although the current Speaker is a woman, there are only six female National Assembly Members out of 53 members.

Below the disaggregated data of female representation both at the National Assembly and the local Government elections.

#### **Elected Female National Assembly Members**

<b><u>YEAR</u></b>	<b><u>NO.</u></b>	<b><u>PERCENTAGE</u></b>
2007	2	4.17%
2012	3	6.25%
2017	3	5.66%

### **Elected Female Councillors (Council Elections)**

<b>YEAR</b>	<b>NO.</b>	<b>PERCENTAGE</b>
2008	14	12.28%
2013	10	8.77%
2018	8	6.67

The picture is much better in the Judiciary and legal sector, where out of a total of 20 Judges, there are currently 10 female judges in the Superior courts of The Gambia, with one sitting in the Supreme Court and one serving as President of the Court of Appeal. In the subordinate courts, 22 out of the total of 42 Magistrates are women. For the first time in the history of the legal profession in The Gambia, both the current President and Vice president of The Gambia Bar Association are women.

### **Constraints**

Despite the considerable progress made, The Gambia is yet to attain the requisite 30% representation at all levels of Government. The target had been attained at the level of cabinet positions in the past but there has been a backward slide. Further, the representation at the National Assembly and Local Government remains below the minimum required. There is need to encourage more women to assume top managerial positions and other decision-making roles in the interest of empowering them.

Although there was a clamour for affirmative action for women in governance, the Women's Act did not adequately address this concern. However, with the current constitutional review process in The Gambia, it provides an opportunity to improve on the representation of women in governance positions.

The trend of excluding females from decision-making positions is largely a reflection of the cultural perception of the status of women in Gambian society. In order to enhance the participation women in the socio-political and economic life of the country, there is a need to change the mind-set of people through

rigorous Sensitisation and awareness creation on the social benefits of women's effective participation in decision making as well as the training of women in community leadership, networking and advocacy

#### **1.4 Education.**

The Constitution provides for the right to equal educational opportunities. It is also directive principle of state policy to ensure basic education for all citizens and the provision of adequate resources for the purpose. In addition, the Children's Act also provides for the right to education.

Section 26 of The Women's Act of 2010 provides for the elimination of discrimination in the field of education. It provides that every woman has the right to basic education and training for self-development. It also provides that the Government shall take all appropriate measures to eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training.

The Gambia education polices 2004–2015 and 2016-2030 aims to promote broad-based education at the basic level for lifelong learning and training and mainstreaming gender in the creation of opportunities for all to acquire literacy, livelihood skills and the utilisation of these skills in order to earn a living and become economically self-reliant members of the community. One of the policy's objectives is to introduce a School Improvement Grant (SIG) in order to make basic education free in all Government and grant-aided schools. A bursary scheme will be established for girls to cover the cost of uniforms and stationery especially for girls in the rural area.

As a result of the measures taken to improve literacy and school enrolment rates, a 5.5% increase has been recorded in the enrolment of girls in lower basic education per-annum between the years of 2010 to 2015. The Gross Enrolment Ratio for girls increased from 89.1% in 2010 to 103.5% in 2015, with girls now representing over 50% of enrolment in formal lower basic schools. The ratio of boys to girls in senior secondary level is 1:1.

There has been tremendous progress in expanding access to education for girls at all levels as a result of different projects and programmes that have been implemented including through the implementation of the National Education Policy 2004-2015 and gender mainstreaming strategies contained in the Education Sector Strategic Plan 2006-2015.

The Constitution commits the Government to providing basic education for all of its citizens. The expanded vision of Basic education in the National Education Policy 2004-2015 incorporates early childhood development (ECD), Grades 1-9 of the formal school system and adult and non-formal education. The values outlined in the National Education Policy, 2004-2015, are grounded on a non-discriminatory and all-inclusive provision of education, underlining in particular gender equity and targeting the poor and the disadvantaged.

The gender mainstreaming strategies contained in the ESSP 2006-2015 are-

- Minimising educational costs, especially for girls;
- Increasing the number of child-friendly school environments; and
- Equal gender participation at the PTAs, governing boards and management levels of schools.

There is tuition free schooling in the public schools up to Grade 9. The scholarship Trust Fund pays for all the girls from Grades 7-12 in Regions 3-6. The President's Empowerment of Girls Education Project (PEGEP) pays for all the girls in public schools from Grades 7-12 in Regions 1 and 2 and also contributes tuition fees for girls in the private schools. These funds are supplemented by regional initiatives and incentives of various types, including special scholarship packages that cover a wide range of costs from fees, uniforms, books to mentoring.

The Child Friendly School Initiative supported by UNICEF promotes gender equality in enrolment and achievement and eliminates gender stereotypes. It provides a healthy and protective environment for children through the provision of adequate water and sanitation facilities and discouraging corporal punishment and harassment. It promotes child-centred learning and encourages family and community-based local partnership in education. The CFSI is a powerful tool both for helping to fulfil the rights of children and providing them an education of good quality.<sup>12</sup>

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<sup>12</sup> UNGEI, 2006.

## **Access to Education**

Tremendous success has been registered in expanding access to education across all levels. Schools have been brought nearer to within 3 km-5 km from the communities. Building schools closer to the homes of the students enhances access and contributes to the safety of the girl child. Under the Third Education Sector Project Phase 1 (1998-2006) and Phase 2 (2006-2011), the Ministry of Basic Education was able to build classrooms throughout the country supported by different donors to improve access to quality education for all Gambians (see table 3).

Additional resources from the EFA/FTI have greatly contributed to the provision of additional classrooms and provided the impetus to accelerating access to basic education. It has helped to close the gender gap through the development of appropriate policy, provision of sex disaggregated data and gender information, capacity building of senior management and provided the needed finance to close the funding gap. Generally, resources are more equitably distributed and better utilized for programme implementation.

At the tertiary level, the Gender and Development course run by the Management Development Institute (MDI) contributes to the building of a critical mass of persons with knowledge and skills in gender mainstreaming, thus facilitating gender analysis and gender monitoring in the various sectors of governance. The University of The Gambia (UTG) has also introduced gender studies as a compulsory subject in all faculties. The UTG has contributed in no small measure to the access of girls to higher education. In 2008, girls' enrolment constituted 21.58% of the total as compared to 10% when the university was first established.<sup>13</sup> To enhance access for girls and young women, a number of programmes have been initiated such as the ACCESS PROGRAMME run by the University of The Gambia, the RIFT (Remedial Instruction for Female Teachers) by The Gambia College and the extra mural classes by the GTU.

### **Adult and Non-Formal Education:**

The Community Skills Improvement Project (CSIP) sponsored by the African Development Bank continues to deliver training for women and out of school youths with the view to enhancing self-employment ventures and entrepreneurship development. The project targeted 40,000 women and youth in 250 communities but was able to reach 32,377 (80.94%). The total number of participants who are now classified as literacy

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<sup>13</sup> PRSP 11, Department of State for Finance and Economic Affairs, 2006.

graduates is 12,678, representing 32% of the target.<sup>14</sup> The Integrated Functional Literacy Project sponsored by the Islamic Development Bank has designed a curriculum for 400 contact hours for 2,000 young men and women and produced didactic materials in the national languages in thirteen subject areas including agriculture, literacy, numeracy, health, nutrition, environment, forestry, life skills, livelihood skills, gender, governance, peace and security and human rights. Facilitators have been trained in the use of these materials and it is expected that the service providers will use them in their functional literacy classes.

The MoBSE has expanded the space for CSO participation in education at all levels ranging from policy formulation, implementation, service delivery, infrastructure development and monitoring and evaluation. This has increased public interest and involvement in education, leading to a broadening and deepening of participation at all levels by key players such as the Education for All Campaign Network (EFANet), ChildFund, Voluntary Services Overseas (VSO), Peace Corps, Future in Our Hands (FIOH), GAMCOTRAP, SIMMA, Association for the Promotion of Women's and Girls Advancement (APWGA), Foundation for Women's Research and the Environment (BAFROW), Women in Service and Development (WISDOM), Forum for African Women, Educationalist-Gambia (FAWEGAM), National Women's Framers Association (NAWFA), Pro-poor Advocacy Group (Pro-PAG), Gambia Teacher's Union (GTU), Girls Guide Association, Gambia Home Economics Association and Faith Based organizations.

### **Mother's Clubs:**

The FAWEGAM-Mother's Clubs play a role in closing the gap between boys and girls in schools by generating income to cover the indirect cost of school fees, give guidance and counselling to families and girls to promote the retention of girls in school and engage in environmental cleanliness of the school.

The American Girls Scholarship Programme (AGSP) is jointly implemented by Education for All Campaign Network, FAWEGAM and BAFROW. From its inception in 2005, 1,600 girls in the Western region have benefited from the programme which covers school fees, uniforms and books and mentors the girls to enhance their performance in schools.

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<sup>14</sup> CSIP Contribution to the BPFA Report.

## **THEME TWO: PROTECTION OF WOMEN FROM VIOLENCE**

### **2.1 Bodily integrity and dignity, including sexual violence, trafficking of women and medical and scientific experimentation. (Article 3&4)**

The Gambia has taken a number of measures to protect the integrity and dignity of women. Section 28 of The Constitution of The Gambia provides for the right to dignity for all persons. Various legislative and administrative measures have been put in place to prohibit exploitation of women and to ensure the protection of every woman's right to dignity and protection against all forms of violence.

Section 4 of the Women's Act 2010 also provides that every woman is entitled to respect for the dignity of her person, and accordingly, no woman shall be-

- a) subject to torture or to inhuman or degrading treatment or punishment;
- b) held in slavery or servitude; or
- c) required to perform forced or compulsory labour.

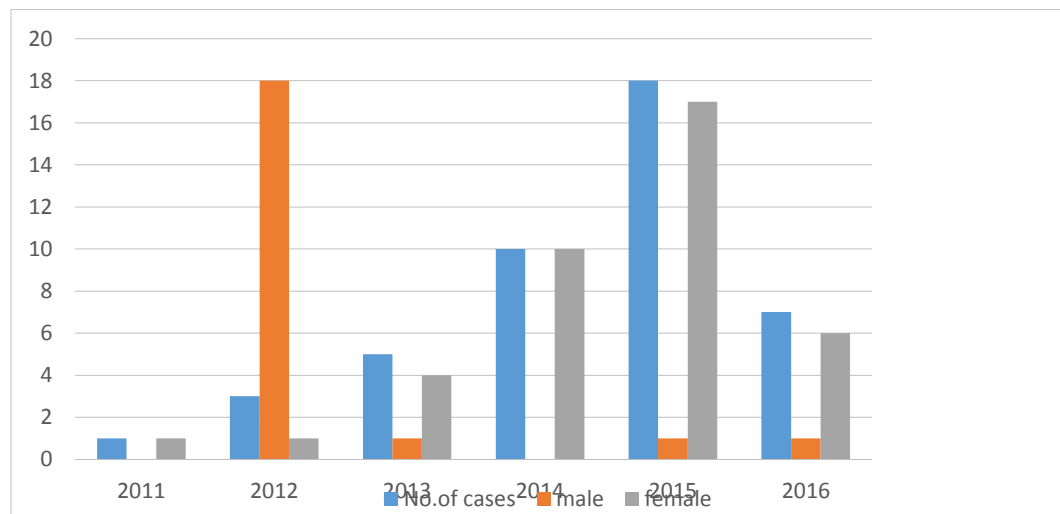
The Women's Act further prohibits any form of physical, sexual, psychological, or economic harm, suffering or violence occurring in public or private. Further, Section 9 and 10 prohibits discrimination against women by public or private enterprise.

The Sexual Violence Act 2013 also prohibits any form of violence against women.

The Agency has conducted numerous investigations especially against alleged cases of trafficked girls to Lebanon. The Agency has its own Investigators and prosecutors and despite the fact that there are no convictions, preventive measures are being taken by the Agency in collaboration with the Law Enforcement Agencies to stop traffickers. The Agency is purely being funded by The Gambia Government. There is a shelter for trafficked victims under the purview of the Department of Social Welfare.



In The Gambia, the numbers of reported cases of trafficking are as follows -



The Agency conducts training for its officers as well as law enforcement officers to proactively identify traffickers. The trafficking in Persons Act has made provisions for the rehabilitation and reintegration of trafficked victims back into society. There are also plans to ensure proper investigation of trafficking cases through the training of the Agency's investigators and the security forces.

NAATIP has also conducted a series of border post sensitisations as well as community awareness campaigns in order to sensitise the communities and security officers on how to identify and control the issue of trafficking.

In spite of the efforts to curb it, prostitution still exists in The Gambia. The Gambia Tourism Board in collaboration with the Law Enforcement Agencies does organise sensitisation and awareness campaigns through banners, bill boards and postings at crucial areas like the Airport, the Tourism Development Areas, Hotels, Highways and other locations by The Gambia Tourism Board, in order to raise awareness about the issue of Child Sex Tourism as well as other forms of sexual exploitations.

## **2.2 Practices harmful to women, including female genital mutilation (Article 5)**

In a bid to eliminate harmful cultural norms, Section 14(3) (e) of the Women's Act 2010 specifically enjoins the Government to eliminate all forms of discrimination and acts which perpetrate or tend to perpetrate gender inequality.

To complement Government efforts in the area of FGM/C, NGOs and CSOs were engaged in advocacy and awareness campaigns against FGM in local communities. Numerous CSO's champion the fight against FGM/C with appreciable results. GAMCOTRAP has organized "Dropping the Knife" ceremonies where the circumcisers make public declarations that they will no longer engage in the practice and that they will protect the girl child not only from FGM/C but other harmful practices such as FGM.

The Women's Bureau in partnership with UNICEF, and TOSTAN worked on a Community Led Project in Upper River Region against FGM/C. In addition, policy dialogues were conducted for religious and community leaders at the national and regional level to ensure their effective participation in the campaign to end FGM/C in The Gambia.

In 2015 the Women's (Amendment) Act criminalised Female Genital Mutilation (FGM). Section 32B of the Act prohibits the practice in all its forms and any person found culpable is liable on conviction to a term of three years imprisonment or to a fine of Fifty Thousand Dalasi or both. Where the act results to the death of the victim, the perpetrator is liable to life imprisonment. The Act also imposes a legal duty to report that the act has been done or is being done or about to be done.

So far, only one case has reached the courts (State vs. Sunkaru Darboe and Saffiatou Darboe) at the Mansakonko High Court. However, the case was subsequently withdrawn by the State largely due to insufficient evidence.

However, despite the legislation enacted to prohibit these entrenched harmful practice, evidence has shown that Legislation alone is not enough. Evidence from neighbouring countries and at the global level that have legislated against the practice indicates that people with entrenched beliefs will resort to other measures that will enable them to practice what they believe in. there is therefore the need for attitudinal change and beliefs and the need for sustained sensitization, awareness creation and behaviour change communication for people to give up the practice.

### **Child marriage**

In 2015, The Children's Act 2005 was also amended to criminalise the harmful practice of Child Marriage and betrothals. However due to this deep rooted cultural practice among mainly uneducated rural families,

legislative intervention and prosecution will not be a panacea to the problem of child marriage. It would take education and awareness to comprehensively deal with the issue. Accordingly, the Department of Social Welfare in collaboration with a number of institutions such as Think Young Women, FLAG, NGBV, Child Rights Unit of the Ministry of Justice have been engaged in advocacy and sensitization trainings highlighting the dangers of child marriage and encouraging parents to abandon the practice.

### **2.3 Female stereotypes (Article 4(2)(c))**

Socio-cultural beliefs and practices, such as patriarchy continue to hinder the complete acceptance of women and their participation in positions of leadership. Cultural phenomena have created the stereotype 'impression that men are superior and women are inferior' and a 'socialization process [that] has also led men and women to perceive men as leaders and women as supporters.' These perceptions are alleged to "put women in the *private* sphere as wives, mothers and daughters and men in the public domain of decision-making", as well as the economic and political arena.

Further, discriminatory stereotypes especially as relates to education, where preference is given to males in the family as they are viewed as the breadwinners of the family.

It is also a directive principle of state policy to especially encourage girls to go to school by providing free education. In addition to the Constitutional provisions, the Children's Act also provides for the right to education.

Furthermore, organisations such as the Female lawyers Association, Think Young Women, Network Against Gender Based Violence, Women's Bureau, GAMCOTRAP have over the years been engaged in major sensitization of the Women's Act to challenge the notion of patriarchy in The Gambian society and through the National Women's Council, women in all districts of the country are represented in this council with the view to engaging women in their community and promote their participation in their communities in decisions affecting them.

### **2.4: Sexual harassment**

There is no express provision prohibiting sexual harassment under the Sexual Violence Act. However, Section 6(1) extends its protection to physical, sexual, psychological and suffering of women.

In addition, The Women's Act of 2010 under Section 26 (c) protects women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices.

## **2.5 : Domestic Violence**

The Domestic Violence Act 2013 prohibit all forms of Domestic Violence against women adopted an integration approach to addressing the menace including; protection, prevention, punishment and

Despite the enactment of The Domestic Violence Act, the capacity of the relevant institutions to enforce these innovative legislations remains a challenge. Reporting mechanisms for abuse and exploitation outside of the Greater Banjul Area needs to be strengthened and regulatory guidelines and monitoring mechanisms on women and children protection issues are not available at all levels. There is need to put in place such mechanisms to fasten response.

Another challenge is the lack of statistical date. Since the commencement of the Domestic Violence Act 2013 the number of complaints lodged by victims of Domestic Violence in The Gambia cannot be provided as the data is yet to be compiled.

The Ministry of Justice in collaboration with the police investigates and prosecutes perpetrators whenever there is a report of sexual, domestic or of any form of gender based violence. In addition, a series of sensitisation and trainings are being conducted to create more awareness on the existence of the legal frameworks including the security apparatus, the traditional authorities, religious leaders, women and girls among others.

A Gender and Child Welfare Unit has been set up at The Gambia Police Headquarters and Police Gender and Child Welfare Officers have been trained to provide support and posted to almost all Police Stations in the urban and provinces.

The Female Lawyers Association The Gambia (FLAG) is implementing legal empowerment initiatives that enable women to be active participants in using the law. These interventions include the provision of legal services, such as legal aid and paralegals; capacity building made human rights awareness trainings.

FLAG has recently trained rural women as paralegals as well as conduct numerous sensitisation workshops.

## **2.6 Support to victims of domestic violence, including health services and psychological counselling.**

The Domestic Violence Act of 2013 provides for the rehabilitation of Offenders and Counselling and Integration of Victims. Currently the Shelter for the Elderly and Children in Bakoteh is the only place available providing shelter for victims of such forms of violence. However, the Domestic Violence Act provides for protection orders to be given to victims of domestic violence allowing them to remain in their place of residence without the perpetrator.

It must be noted that the enforcement of the Domestic Violence Act is particularly challenging for law enforcement agencies. Due to deep rooted cultural practices among some communities, such cases are mostly unreported. Even where such cases are reported, prosecution of such cases become challenging due to the unwillingness of some families to subject themselves to the court process due to family and societal pressures.

Notwithstanding, a number of sensitisation and awareness raising initiatives have been undertaken by the Governmental and non-Governmental organisations. The Ministry of Justice in collaboration with UNICEF has conducted a series of nationwide trainings for law enforcement officials on the handling of female victims of violence under the Domestic Violence Act 2013 and the Sexual Offences Act 2013.

The Network Against Gender Based Violence (NGBV) embarks on awareness raising initiatives on the issue of gender based violence and there is also a One Stop Centre at the Shelter in Bakoteh where victims of gender based violence are provided with psychotherapy and counselling. The implementation started in earnest since these legal frameworks (Sexual Offences Act, and Domestic Violence Act, 2013) came into being.

A Coordination Committee meets every quarter to review cases that were reported to the Ministry and the Women's Bureau and recommends appropriate measures to address the cases

The Gambia National Plan of Action (NPOA) on GBV 2013-2017 which was supported under the UNICEF/UNFPA Joint programme has been adopted. The overall objective of the NPOA is to “reduce the number of women who accept Gender Based Violence from 75.5 per cent to 30 per cent.” The formulation and implementation of Gambia’s National Action Plan on Gender-Based Violence, is part of the efforts for the harmonisation and coordination of interventions of both state and non state actors in sensitisation and discussions on traditional and cultural issues that affect the health and wellbeing of women and girls.

The partnership for the implementation of the National Action Plan with civil society, religious leaders, community leaders and faith based organisations is essential in enhancing local level commitment to the eradication of violence against women and girls.

### **THEME 3: RIGHTS RELATING TO MARRIAGE (Articles 6-7)**

3.1 The Government has a duty to promote and protect the rights of women in marriages and family and in so doing, Section 27 of the Constitution provides that “men and women of full age and capacity shall have the right to marry and found a family based on the free and full consent of the parties” and supported by the provisions of the Children’s Act 2005, “full age” is now legally pegged at the age of eighteen (18) years for both male and females.

In The Gambia, customary law co-exists alongside Islamic law in the area of traditional marriage, divorce, family matters, inheritance, land tenure, tribal and clan leadership. With particular regard to the effect of marriage and the protection of women’s rights, the Women’s Act 2010 provides that a woman and a man shall enjoy equitable rights as equal partnership in marriage. The Act further provides that a woman has the right to retain her maiden name after marriage and use it as she pleases, either jointly or separately with her husband’s surname.

3.2 In 2016, the Children’s Act was amended to expressly prohibit the practice of child marriage, with a penalty of up to twenty years imprisonment for any would-be offender.

3.4 In The Gambia, polygamy is a widespread practice is widely accepted and practised amongst Muslim communities as well as traditional believers within the communities.

3.5 With regards to the protection of women during separation, divorce or annulment of marriage, the Women’s Act under Section 43 provides that women have the right to seek separation, divorce or

annulment of their marriage. In case of separation, divorce or annulment of such marriages, women shall enjoy equitable rights in the property derived from the marriage. For instance in 2011, this provision was invoked in the case of *Matty Faye v Dawda Jawara*, wherein Matty Faye (the Applicant) was able to obtain a declaration from the Court that she is entitled to an equitable share of her matrimonial property, based on the substantial contribution in the development of the property, even though the property was in the name of her ex-husband.

3.6 Section 39 of the Women's Act provides that a woman has equal rights with respect to the nationality of her children. Furthermore, Section 40 also provides that both parents shall have joint responsibility with respect to safeguarding the interest of the family as well as the providing the necessary protection and education for the children.

By virtue of the Children's Act 2005, Children's Courts have been established in the three Administrative regions of Banjul, Brikama and Basse. These courts have exclusive jurisdiction over criminal and civil matters involving children. Their civil jurisdiction extends to matters relating to adoption, child custody, child maintenance amongst others.

Section 43 of the Women's Act further provides that in the case of separation, divorce or annulment of marriage, both the father and mother have reciprocal rights and responsibilities towards their children and at all times, the interest of the children shall be given paramount consideration

#### **THEME 4; HEALTH AND REPRODUCTIVE RIGHTS**

##### **4.1 Access to health services (Article 14(2)(a))**

The Government of The Gambia accords high importance to implementing measures to effectively address health challenges faced by the populace particularly as it pertains to malaria, HIV, tuberculosis and other related infectious diseases.

Currently, implementation of the National Health Policy Framework (NHPF) 2007-2020 is ongoing. The Policy seeks to 'promote equity (both gender and territorial) in access and affordability of quality health services, maintain ethics and standards, promote health system reforms and improve staff retention and client satisfaction.' Other health sector policies currently being implemented include the National

Reproductive Health Policy, National HIV/AIDS Policy, the National Nutrition Policy and the National Population Policy and Plan of Action.

Provision of primary and secondary health care has expanded significantly with increased immunization reducing mortality rates. Works to improve physical access continues with the upgrading and building of new facilities, staffed with qualified health personnel. This has increased geographical coverage and reduced the distance to the nearest health facility. The 2007 PRSP Progress Report indicated that over 85% and 97% of the population are within 3 km and 5 km of a basic health facility and primary health care post respectively. Antenatal care coverage countrywide is as high as 96% as well as the RCH awareness of 96%.<sup>15</sup>

The cost of public health care services remains relatively cheap, as Reproductive and Child Health Services including family planning are provided free of charge. A minimum user charge fee of D5.00 (US\$0.20) is paid for outpatient consultations and treatment at all public health facilities. Micronutrient deficiencies, which are a major cause of morbidity and mortality, are being addressed through a nutrition supplementation programme. Insecticide treated bed-nets are provided free of charge particularly to pregnant and lactating mothers and children under 5 and IPT.

#### **4.2 Reproductive health services, including the reduction of maternal mortality (article 14 (1) (a) & (b))**

Sexual and Reproductive Health (SRH) issues have been among the top priorities of The Gambian Government's agenda for many decades. These have been reflected by the adoption of the Alma-Ata Declaration on Primary Health Care (PHC, 1978), the International Conference on Population and Development (ICPD-PA, 1994) and The Millennium Development Goals (MDGs, 1990-2015). Despite these efforts, The Gambia remains a country with a relatively high Maternal Mortality Ratio (MMR) (433 deaths per 100,000 live births). The neonatal (22 per 1000 live births), infant (34 per 1000 live births) and child mortality (54 per 1000 live births) rates are also high. (GBOS, 2014).<sup>16</sup>

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<sup>15</sup> Paper presented by Ramou Cole Ceesay as the health contribution to the BPFA + 15 Report.

<sup>16</sup> National Reproductive, maternal, Neonatal, Child and Adolescent Health (RMNCAH) POLICY (2017 -2026)



According to the 2013 DHS, adult mortality is slightly higher among men than women at 2.4 male deaths and 2.3 female deaths per 1,000 population. Between ages 15 and 50, approximately 99 women per 1,000 and 102 men per 1,000 are likely to die. The report also revealed that maternal deaths account for 36 per cent of all deaths among women age 15-49. The maternal mortality rate for the seven-year period preceding the survey was 0.77 maternal deaths per 1,000 women. The maternal mortality ratio was 433 maternal deaths per 100,000 live births for the seven-year period preceding the survey.

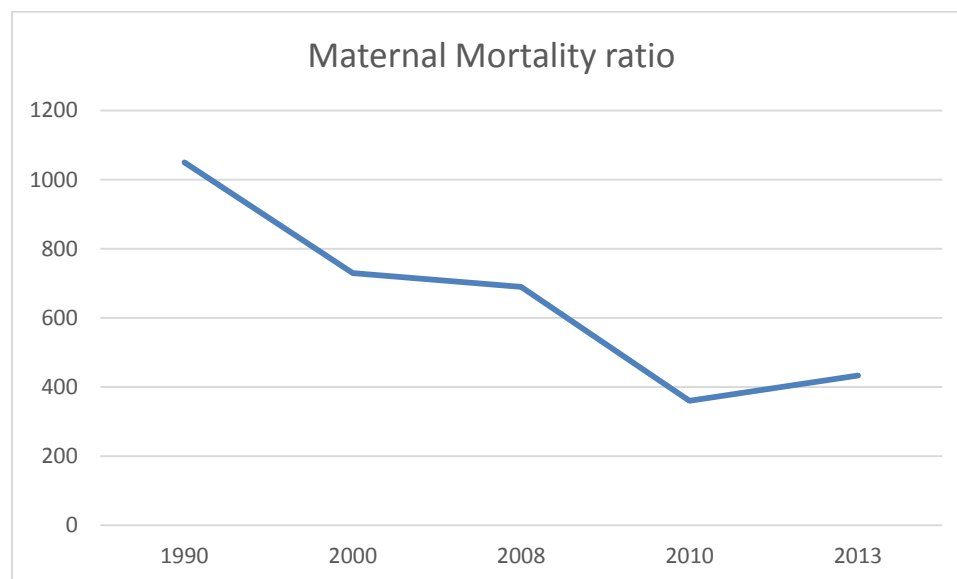
The Gambia subscribed to the 75% reduction of MMR by 2015. However, the reduction of MMR in the country has been very slow and remains among the top priority of the country for the post-2015 SDG agendas. Majority of maternal deaths in the country are as a result of avoidable direct obstetric complications, including haemorrhage (37%), hypertensive disorder of pregnancy (11%) and sepsis (11%) (WHO, *et al*, 2015). The main contributing factors include, inadequate access to CEmONC and BEmONC services, lack of trained human resources, transportation and low socio-economic status of the people. Addressing these challenges and improving availability and quality of CEmONC can contribute to at least 60% maternal mortality reduction in the country.<sup>17</sup>

The Government continues to provide free maternal and antenatal health care in all Government health centres. Primary and secondary health care has also significantly expanded, and increased immunization has reduced mortality rates.

The mortality and causes of death data and the denominator for 2015 mid-year population estimates is illustrated below.

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<sup>17</sup> National Reproductive, maternal, Neonatal, Child and Adolescent Health (RMNCAH) POLICY (2017 -2026)



*Table: Maternal Mortality ratio*

The mortality rates among women as a result of complications during pregnancy or childbearing decreased from 1050 per 100 000 in 1990 to 433 per 100 000 in 2013.

The following achievements have been registered -

- With the establishment of the Medical School, there are now more doctors in the country. As a result, doctors are now being posted to health facilities in the regions to ensure timely interventions and provision of quality care in rural areas
- The Government has announced the provision of free maternal, new born and child health services
- Institutionalisation of Advance midwifery program in training schools for skill improvement in the provision of basic obstetric care services in all the health facilities in the country
- Training of peri-operative and anaesthetist nurses to make operating theatres operational for obstetric care services in the rural areas
- Training of service providers on Focused antenatal care
- Training of nurses on emergency maternal, new-born and child health
- Neo-natal care training for services providers
- Provision of vaccines and maintenance of high immunisation coverage
- Availability of life saving equipment.
- Recent introduction of Result Base Financing

Progress has been registered in the areas of maternal and infant mortality as revealed in the 2013 demographic and health survey conducted nationally. In 2013, maternal mortality declined from 730/100000 live births in 2001 to 433/100000 live births. Infant mortality has declined from 75/1000 live births in 1999 to 34/1000 live births in 2013 demographic and health survey (GDHS). The insufficient number of trained, skilled and motivated personnel and inadequate medical equipment has limited the impact of these interventions.

#### **4.3 Provision of abortion (Article 14 (2)(c))**

Abortion remains criminalised in The Gambia except when the health or life of the mother is at risk. However, the continued practice of clandestine abortions remains an issue and a concern as it leads to adverse consequences on the health of women and girls. Due to the near total ban on abortion, this has resulted in the paucity of reliable data on the national burden of abortion. According to the 2015 HMIS report, nearly 1607 cases of post abortion were treated within a year (MoHSW, 2016). However, many more might have been conducted underground and not reported to reflect the true magnitude.

Due to continued public support for the near complete ban on abortion, the Government is yet to adopt specific measure to revise legislation criminalising abortion. Notwithstanding, through the work of The Gambia Family Planning centre and non-Governmental organisations such as Think Young Women, Action Aid The Gambia, campaigns continue to be undertaken to raise awareness on the provision of contraception along with the dangers of clandestine abortions.

#### **4.4 HIV/AIDS Article 14(1)(d))**

Health policies and programmes have contributed to low prevalence rates of HIV/AIDS in The Gambia. Furthermore, the HIV and AIDS Act has been enacted to ensure adequate addressing of HIV and AIDS by the Government.

The National AIDS Secretariat (NAS) is responsible for the overall coordination and management of the national HIV response. The National AIDS Secretariat continues to deliver on its mandate of coordination and monitoring of the national response, in addition to fulfilling its responsibility as a Principal Recipient (PR) for the Global Fund (GF) Round 8 HIV Grant.

The 2013 DHS showed that the adult HIV prevalence (HIV1&2) is 1.9 per cent among adults 15-49 years. There are no significant differences between the HIV prevalence of 2.1 per cent (CI: 1.7 per cent-2.5 per cent) among women aged 15-49 years and 1.7 per cent (CI: 1.3 per cent-2.1 per cent) for men of same age group. However, modelling with Spectrum for the analysis of HIV situation of a country, the results indicate that 59.7 per cent (11613) of women and 40.3 per cent (7853) of male are living with HIV as of 2013.<sup>18</sup>

HIV prevalence among pregnant women is 1.57 per cent (NHS 2012) with an estimated number of 1333 pregnant women needing ARV prophylaxis in 2013 but 729 HIV positive mothers were reached by December 2013 representing 55 per cent coverage. With current interventions, the rate of mother to child transmission of HIV is at 8.48 per cent.

NAS INDICATORS – Source HMIS

<b>Number of adults and children currently receiving antiretroviral therapy among all adults and children living with HIV</b>	<b>5,022(25%)</b>
<b>&lt; 15</b>	438
<b>15+</b>	4,584
<b>Male</b>	1,418
<b>Female</b>	3,604
<b>Number and percentage of women and men aged 15+ who received HIV test and know their results</b>	45,148(4.6%)
<b>Number and percentage of pregnant women who know their HIV status</b>	59,608(59.3%)
<b>PMTCT pregnant women who received triple combination therapy for the first time</b>	743
<b>Number of infants born to HIV positive mothers who were tested at 18 months</b>	75

<sup>18</sup>DHS 2013

<b>Number of infants born to HIV positive mothers tested positive for HIV</b>	25
<b>Number of infants born to HIV positive mothers aged 2 months who received Cotrimoxazole prophylaxis this month</b>	464

### **Prevalence of HIV in The Gambia as of 2013**

Programmes to support women living and affected with HIV are not stand-alone but integrated in the comprehensive HIV interventions and in Sexual and Reproductive Health Services. NAS has updated both the National HIV Policy and National Strategic Plan (NSP) for the period 2015-2019, with an overall goal: To achieve zero new HIV infections, zero AIDS-related deaths and zero stigma and discrimination in The Gambia.

One of the objectives is to reduce mother to child transmission of HIV at 6 weeks from 10 per cent in 2013 to 3 per cent by 2019. The NSP intends to promote and strengthen PMTCT services and its integration into Reproductive, Maternal, New-born and Child Health (RMNCH) services and also aims to reduce the rate of HIV transmission from mother to child to 3.9 per cent by end of 2017.

Priority interventions for PMTCT in the 2015-2019 NSP include –

- (i) Increase public, NGO, and private health facilities offering integrated RMNCH, ANC and elimination of mother to child transmission (e-MTCT) services: Scaling up of e-MTCT to ensure all antenatal clinic (ANC) sites provide HCT services. PMTCT sites increased from 32 in 2014 sites to 57 sites by 2017 and maintained to 2019. E-MTCT integrated with RMNCH, staff trained on HCT and test kits supplied to enable these sites provide the service. Monitoring of the sites intensified to ensure quality service. Certain PMTCT sites with the required capacity will be converted into ART sites to implement the option B+ policy. Task shifting and the use of point of care equipment incorporated into the scale up strategy to the decentralized levels;
- (ii) Sensitization of women and men on e-MTCT: Civil society organizations, community health workers and community leaders engaged to sensitize women and men on e-MTCT and mobilize pregnant women to visit ANC sites;

- (iii) Engage political leadership for comprehensive e-MTCT of HIV at all levels: Meetings held with National Assembly Members to build the advocacy for e-MTCT at their constituency level; and funding for e-MTCT from the Government budget;
- (iv) Develop national and regional capacity for coordination, organization, quality assurance and management of e-MTCT utilizing RCH platform;
- (v) Establish community involvement initiatives and linkage mechanism to health facilities aiming at creating demand and increase service utilization for RCH and e-MTCT of HIV;
- (vi) Strengthen logistics management system and commodity security for e-MTCT;
- (vii) Support women led PLHIV support groups for skills acquisition and development coupled with income generating activities.

The main intervention area is the Prevention of Mother to Child transmission of HIV (PMTCT); these are intended services to address a wide range of prevention, treatment care and support services along a continuum of care from pregnancy through childhood. The PMTCT of HIV covers a package of interventions as recommended by WHO as 4 prongs which should be implemented simultaneously-

1. Primary prevention of HIV infection among women of childbearing age;
2. Preventing unintended pregnancies among women living with HIV;
3. Preventing HIV transmission from a woman living with HIV to her infant; and
4. Providing appropriate treatment, care and support to mothers living with HIV and their children and families.

The care package for women living with HIV includes-

- Assessment and diagnosis of clinical and immunological status;
- Treatment and prevention of opportunistic infection and Vitamin supplements;
- Sexually Transmitted Infection (STI) management;
- Counselling on infant feeding;
- Ongoing psychological counselling and support;
- ARV prophylaxis or antiretroviral therapy;

- Early Infant Diagnosis (EID) which is now being piloted in 14 sites and plans are afoot to scaling it with PMTCT to all RCH clinics. EID is a service that verifies the HIV status of babies as early as 6 weeks of birth and so far about 100 babies were tested and only 1 was found positive.

The Service Delivery Areas (SDA) under the purview of NAS are mostly health facility based and include: Post Exposure Prophylaxis (PEP), HIV Counselling and Testing (HCT), Prevention of Mother to Child Transmission (PMTCT), HIV Clinical Care and Anti-Retroviral Therapy (ART), and Health System Strengthening (HSS). In addition, there is an on-going program to support Post Exposure Prophylaxis services in health facilities.

- I. HIV Counselling and testing services are being provided through static health facilities and community outreach approach. The program is intensifying both the client and provider initiated counselling and testing approaches to increase uptake on HCT. Other strategies such as demand creation by the partners involved in community HIV prevention programs and on-going outreach services are paying dividend on HCT uptake. Routine programmatic data revealed an over achievement of the target (109%) of the 2014 HCT target. However, stigma and denial associated with the disease continue to affect HCT service delivery.
- II. Under the PMTCT services, the program attained an annual cumulative coverage of 92% of 2014 target for counselling and testing of pregnant women. The program also recorded 63% coverage for the administration of ARV prophylaxis for positive women and their babies. The 42 % results on the administration of Cotrimoxazole prophylaxis to exposed babies have not been impressive. This is due to stigma and denial associated with the disease and the outcome of their pregnancies.
- III. The program registered a significant enrolment of patients on ART with an overall 4586 PLHIV currently on ARV representing 91% of the year's target. Out of the cumulative 4586 PLHIV on ART, 380 are children and 4206 are adults (males 1176 and females 3030). This provides evidence for more enrolment of PLHIV on ART, particularly children. With the adoption of the new 2013 WHO consolidated treatment guidelines, it is envisaged that more people will be put on treatment.
- IV. The Health Technician Training Institute (HTTI) under the University of The Gambia, School of Medicine and Allied Health Sciences finally completed the training of Assistants and Technicians in pharmacy, laboratory, physiotherapy and radiography as part of HSS component of the grant. This

component also supported the nurse training institutions and Leeds Metropolitan University in collaboration with UTG to train health workers to certificate and degree levels respectively. Overall, 130 health workers graduated from these training institutions in 2014. However, the biomedical equipment technician training is yet to commence despite efforts being pursued to start the training.

**Civil Society Organizations (CSOs) efforts in the health sector:**

1. Both The Gambia Family Planning Association (GFPA) and BAFROW run the MCH and the Well Woman Clinic respectively. The Gambia National Association of AIDS Support Societies (GAMNASS), the umbrella body organization gives support to people living with HIV/Aids (PLWHIV).
2. Home based care services continue to be provided by CSOs such as Hands on Care, GRCS and organisations of PLWHA such as Santa Yalla, Nyanaiyikiling and Mutapola (a network of women and girls living with HIV/AIDS). HIV/AIDS prevention activities are carried out by), Nova Scotia Gambia Association (NSGA), TANGO, Lend A Hand Society (LAHS), Gambia Red Cross Society (GRCS), The Trust Agency for Rural Development (TARUD), NASSO and Soul Talk and Concern Universal.

**4.5 Sex education (article 14(1) (g))**

According to the 2013 DHS majority of married women have heard of at least one method of family planning however only 9 per cent of married women were using a method of contraception with 8 per cent using a modern method. The report also showed that Government health centres were the most important source of providing family planning methods at 41 per cent. The 2013 DHS report also unveiled that one-quarter of married women have an unmet need for family planning mostly for spacing births.

Disaggregated data on adolescents affected by early pregnancy, sexually transmitted infections are not available. This topic presents a challenge in a religious society where certain practices are not easily accepted. For instance, the 2003 study on the Sexual Abuse and Exploitation of Children in The Gambia revealed that the majority of adult community leaders, both male and female, were wary of sex education programmes in schools and children's right to take responsibility for their own sexual and reproductive health. Many saw this as part of western culture encouraging children to engage in immoral behaviour.



Most people opposed the idea of their children having access to medical treatment and advice on sexual and reproductive health without parental consent.

The curriculum for the Ministry of Basic and Secondary Education contains population and family life education taught to Grade one (seven year olds) to Grade twelve (eighteen year olds). It is through this subject that sex education is taught to pupils and students however the problem remains that all schools provide this class to its pupils and students.

However, studies by GBOS show the need to expand the Adolescent Sexual Reproductive Health services and integrate adolescents and youth friendly services in a form of a “One stop shop” into the existing public health system. It is also important to collaborate with The Ministry of Education to revitalize age tailored, culturally sensitive, socially acceptable and legally sound Sexuality Education.

Nevertheless, The Gambia Family Planning Association assists a number of teenage girls, treating them for sexually transmitted infections, offering pregnancy and HIV tests, and liaising with CPA, the Department of Social Welfare, and the Child Welfare Office of The Gambia Police Force in cases of abuse. Other NGOs, such as the Youth With a Vision and Girls Platform, also focus on adolescent reproductive health, teenage pregnancy and related issues. These complement the life skills programmes offered by the Department of State for Basic and Secondary Education.

From the 2010 MICS, adolescent fertility and early child bearing stand at 19 per cent and 118/1000 respectively. The Gambia Family Planning centre provides free contraception and advice to members of the public on sexual and reproductive health education. Measures envisaged to further increase availability and accessibility of age appropriate comprehensive sexual and reproductive health and rights education and family planning and contraceptive use are -

- Production of services manuals on adolescence and family planning for services providers
- Awareness creation in communities using community radios and traditional communicators
- Expansion of services delivery points (outreach services, clinics & health centres) in the communities to improve access to family planning and adolescent health services
- Maintaining uninterrupted supply of method mix contraceptive at various levels of care including the community.
- Making major health centres functional by providing Comprehensive Emergency Obstetric care services.

- Training of service providers on contraceptive technology
- By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes;
- Proportion of women of reproductive age (aged 15-49 years) who have their need for family planning satisfied with modern methods;
- 7.1% the percentage of women of reproductive age who have their need for family planning satisfied with modern methods of contraception;
- By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.

In the area of HIV/AIDS prevention, in 2004 6,000 booklets on HIV/AIDS were produced and distributed among young people. Each year since 2004, there has been a national drama competition on HIV/AIDS for schools. Weekly radio talk shows about HIV/AIDS on a local FM station potentially reach all the young people in the Kanifing Municipality. In 2005 a Life Skills Programme and Manual for HIV Prevention among young people was developed and finalized; this was used to train over 1000 youth in 2006.

Government institutions such as the Reproductive and Child Health Unit of the Ministry of Health and Social Welfare and non-Governmental organisations such as TYW also embark on awareness raising campaigns on sexual and reproduction health particularly for regional communities.

## **THEME 5. ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

### **5.1 Economic and welfare rights** :

The 1997 Constitution recognises the right of women to participate in political and public life as provided in Section 26.

In addition, Section 214(4) states that “in the composition of Government, women shall be fairly represented”. The Constitution also guarantees protection from forced labour and slavery.

The 2007 Labour Act also contains extensive provisions on the right to work, conditions of employment and protection from wrongful dismissal or termination of employment. The Act also requires the provisions of

support services “to enable women combine family obligations with work responsibilities and participation in public life”, and protection from harmful work during pregnancy.

### **Policy and Administration**

Similarly, a number of policy decisions are also geared towards effective gender representation in all Government institutions and agencies as well as the private sector.

Gender equality and women’s empowerment are key factors in the development of strategies that focus on poverty reduction and an improved standard of living for people in The Gambia. The Government of The Gambia has placed gender equality and women’s empowerment as one of its top priorities in the national development agenda.

The National Women’s Council and Women’s Bureau established by the Council Act of 1980, and the first National Policy for the Advancement of Gambian Women (NPAGW 1999-2009) has been formulated<sup>1</sup>. This policy provided a legitimate point of reference for addressing gender inequalities at all Government levels and among all stakeholders. A review of the NPAGW in 2006, however, necessitated a policy shift from a women’s development perspective to a gender and women’s empowerment orientation with a rights-based approach. Thus, the revised National Gender and Women’s Empowerment Policy (2010-2020)<sup>1</sup> aims to mainstream gender in all national and sectoral policies, programmes, plans, and budgets to achieve gender equity, equality, and women’s empowerment in the development process.

Men form 52% of the employment work force in the country with the formal sector of consisting mainly of the civil service, employs about 20% of the labour force with women constituting 21% of the civil service. This disparity is attributable to bias in favour of men as completion of higher education is a prerequisite for employment and women generally have low levels of education.

According to the 2013 DHS report, nearly six in ten married women and almost all married men age 15 to 49 were employed in the 12 months preceding the survey. However, most women were found to earn less than their husbands but made independent decisions about their earnings.

Notwithstanding the disparity in employment levels between men and women in the civil service, there is no discrimination in salary when women are employed in same position as men.

## 5.2 Temporary special measures in favour of women

Section 15 of the Women's Act provides temporary special measures to be adopted by every organ, public institutions, authority or private enterprise aimed at accelerating *de facto* equality between men and women. Under this Section a distinction is made between *de facto* and *de jure* discrimination.

As a result of deep seated social and cultural beliefs in The Gambia, *de facto* equality is yet to be achieved especially in politics. For example, in the last National Assembly and Local Government elections, political parties were encouraged to present more women candidates but unfortunately, only 22 women contested in the 2017 National Assembly elections out of a total of Two Hundred and Thirty-Nine Candidates (239). In the 2018 local Government Elections, Forty-Nine (49) women contested out of a total of Four Hundred & Nine (409) candidates.

Despite the great disparity in female representation, Gambian Women constitute 58% of the electorate but only 10% of representation in the National Assembly are women. As of 2016 there were 4 female National Assembly members out of which 2 are elected and 2 nominated by the President. Following elections in 2018, there are five female National Assembly members two of whom were elected with three nominated by the President. Thus, the proportion of female parliamentarians is well below the 30% goal.

**Table 6: Representation at the National Assembly by Sex, 2016**

Component	Indicators	Sex		Both Sexes	Remarks
		Female	Male		
Public Sector	Members of National Assembly (elected)	4	44	48	
	Members of National Assembly (nominated)	1	4	5	
	Speaker of the National Assembly	-	1	1	

	Deputy speaker of the National Assembly	1	-	1	
Total		6	49	55	

All except one of the eight local Government administrations (Area Councils and Municipalities) were headed by men. There are two female Regional Governors out of five. There are 39 District Chiefs and 1 paramount chief none of whom is a female; and of the 1873 villages in the country, there are only 5 female Village Heads (*Alkalolu*) a notable change in traditional decision-making structure.<sup>19</sup>Socio-cultural beliefs and practices such as patriarchy continue to hinder the full acceptance of women and their participation in leadership positions. and a socialization process has also led men and women to be perceived as leaders and women as supporters respectively. These perceptions have unwittingly led to women continuing to lag behind in high to mid-level positions in public life.

### 5.3 Right to food security

Section 48 of the Women's Act guarantees women's right to food security. The Act requires the Government to 'provide women with access to clean drinking water, sources of domestic fuel, land and the means of producing nutritious food; and establish adequate systems of supply and storage to ensure food security.'

The Food Act 2005 provides for control of production, manufacture, sale, distribution, importation and exportation of foods. The Act established the National Nutrition Agency (NaNA) charged with the responsibility of coordinating all nutrition and nutrition activities in The Gambia.

Following a review of The Gambia Nutrition Policy, 2000-2004, which was aimed at mainstreaming nutrition into all aspects of development and attaining basic nutritional requirements of The Gambian population with emphasis on women and children, the National Nutrition Policy (2010-2020) was adopted.

The policy includes emerging issues in nutrition and related areas and the draft strategic plan (2011-2015) for the implementation of the revised National Nutrition Policy 2010-2020. A Business Plan to be used with the Strategic Plan to resource mobilization has also been developed with the assistance of the World Bank.

Amongst the theme of the policy is improving maternal nutrition to improve nutritional status of women before, during and after pregnancy. This target was set as malnutrition still continues to be a major public health problem with the most vulnerable groups being women and children. It is evident that the majority of Gambian women, especially those living in rural areas are in a constant state of energy deficit due to poor dietary habits, heavy workload and frequent infections. Consequently, the prevalence of low birth weight (LBW) babies, maternal mortality and infant mortality are high.

The policy also seeks to improve the care and nutritional status of the socio-economically deprived and nutritionally vulnerable groups, which includes women. As women in the country bear the primary responsibility of the family, the skills and abilities of the primary care giver, who is usually the mother, are crucial to the quality of care, particularly the selection and preparation of food for the family.

The enactment of the Food Act, 2005 led to the –

- promulgation of the Breastfeeding Promotion Regulations and the Food Fortification and Salt Iodisation Regulations;

Revitalisation of the National Codex Committee, which is made up of Government and Non-Governmental Organizations concerned with food production, quality, safety and trade;

- Coordination of the activities of the International Baby Food Action Network for the protection, promotion and support of optional Infant and Young Child Feeding practices;

- Instituted mechanisms to reduce micro-nutrition deficiencies, namely, the salt iodisation and vitamin A supplementation programme as well as the intensification of IEC promoting Iron Deficiency Anaemia (IDA) control;

- Design and implementation of the Baby Friendly Hospital and Community Initiatives for the prevention and management of infant, young child and maternal nutrition. In Baby Friendly communities, Village Support Groups play a key role in transmitting messages and providing support to mothers on practices of infant feeding. In these communities, there is early initiation of breastfeeding within the first hour. The result has been healthier children and women in such communities.

Information aimed at improving nutritional status and promoting healthy diets is disseminated by various mechanisms, such as radio and television spots and programmes, brochures and leaflets (in English), traditional communicators (local languages), sensitisation of community representatives, sensitisations at health facilities, and workshops and lectures at training institutions. The information disseminated include the following:

- Importance of eating well before, during and after pregnancy;
- Importance of iron supplementation during pregnancy and lactation;
- Importance and benefits of optional infant and young child feeding practices;
- Importance and benefits of iodised salt;
- Importance of vitamin A supplement for children less than five years and postpartum mothers within eight weeks after delivery.

### **5.3 Right to adequate housing**

Due to the societal setting of the country, incidence of homelessness in The Gambia is almost non-existent and it is part of Gambian ethos that every member of the immediate, extended and communal family is provided with housing. The majority of the population live in family compounds, although an increasing number of residents in the regions live in rented accommodation as the pace of decentralisation increase. In the Greater Banjul Area, including the Kanifing Municipality, more and more people live in rented premises, a contributing factor being the rural-urban drift.

To safeguard the interests of tenants, the Government has promulgated a Rent Act, establishing in each administrative area, that is, the City of Banjul, Kanifing Municipality, Brikama, Kerewan, Mansakonko, Janjangbureh and Basse areas in the five regions a Rent Tribunal, to among other things, determine the rent payable, taking into consideration the location, age and structure of the property, the facilities available, the number of tenants and any improvement necessary to be made to the property.

Section 53 of the Women's Act, 2010, provides that women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. Other legislations enacted for the promotion of

this Charter right are the State Lands Act, the Registration of Deeds Act, the Rent Tribunal Act, the District Tribunal Act, the Lands (Regions) Act, and the Land Acquisition and Compensation Act.

Another initiative created to assist people afford housing in The Gambia is the housing scheme of the Social Security and Housing Finance Corporation, a public enterprise which continues to formulate low-cost housing schemes initially in the Kanifing Municipality and extending over the years to the Regions. Such housing schemes also provide access to basic amenities and services, such as water, electricity, waste disposal and infrastructures such as access roads, markets, health centres and police stations. The Corporation has about twenty new housing estate sites identified in all the Growth Centres of the country.

However, suitable and affordable housing is a challenge. Despite the numerous initiatives to make adequate housing affordable, owning a home remains a problem in the country particularly for women who tend to take on low paid jobs which affect their ability to afford such housing schemes.

#### **5.4 Right to positive cultural context**

Section 32 of the Constitution guarantees the right to culture in The Gambia. The Government of The Gambia has taken several measures to promote and preserve the cultural heritage of its people. The National Centre for Arts and Culture is tasked with amongst others, the promotion and development of Gambian arts and culture.

#### **5.5 Right to a healthy and sustainable environment**

A number of legislations have been enacted to guarantee this right. These include the National Environment Management Act, the Forest Act, the Anti-Littering Act, 2007, to regulate and indiscriminate dumping and littering of liquid and solid waste in public.

Policies on environmental protection over the years include the Fisheries policy, and Water Resources Policy, the Environmental Discharge Permit Regulations, 2001, which sets out the guidelines for the acceptable procedures to the discharge of waste, the Environmental Impact Assessment (EIA) Guidelines, and procedures booklet, indicating the EIA process for all project developers in The Gambia.



The National Environment Agency (NEA) has been established for the purpose of ensuring that the environment is protected from degradation and undue exploitation. The NEA seeks to ensure an environmentally sustainable economic and social development in The Gambia and it is empowered to initiate prosecutions for environment degradation or pollution. The NEA also enforces the hazardous chemical and pesticides control and management Act, which ensures that all pesticides and hazardous chemicals are registered and license issued to dealers.

The NEA has so far made great strides in the enforcement of its laws relating to proper waste management, public sensitization for environmental protection from degradation and pollution, encouraging the communities to engage in afforestation, and other activities for safeguarding the environment.

#### **5.6. Right to sustainable development, including the right to property; access to land and credit (Article 19)**

The land tenure system in The Gambia consists of freeholds, mostly in Banjul and environs, deriving title from grants made in colonial times, leaseholds for ninety-nine years, and customary tenure in the five Regions comprising lands held by families and communities on a family communal basis. Lands under customary tenure can only be acquired from the families or communities involved, with the stamp of approval/confirmation of ownership by the village heads, alkalolus and the chiefs.

The laws of The Gambia provide for the compulsory acquisition of land for public interest, subject to the payment of reasonable compensation.

The inheritance rights of a woman are determined by her personal law. Sharia Law is applicable to Muslims, statutory law for Christians and customary law for persons who are traditionalist. This means that apart from a few mandatory exceptions contained in laws such as the Women's Act, 2010 and the Children's Act, 2005, the applicable family law to the people of The Gambia is dependent on one's personal law.<sup>20</sup>

The Women's Act contains several provisions relate to ownership of land, namely:

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<sup>20</sup> See sec 7 of the Constitution.

- Section 41 states that a woman has the right to acquire her own property and administer and manage it freely.
- Section 43 guarantees women's equitable rights as men in case of separation, divorce or annulment of marriage.
- Section 33(4) goes on further to ensure equitable sharing of the joint property derived from the marriage.
- Section 44 protects widow's rights and provides that a widow has the right to an equitable share in the inheritance of the property of her husband.
- Government is obligated under Section 52(2) to take all appropriate measures to promote women's access to, and control over, productive resources such as land, and guarantee their right to property.

Although this part successfully incorporates the relevant provisions of CEDAW and the Protocol, Sections 43 and 44 dealing with widow's rights and right to inheritance are subject to personal law. These two provisions have the effect of maintaining the status quo and reflecting the position of the law prior to the enactment of the Women's Act. An innovation is found in Section 43 which is not subject to personal law.

In The Gambia, there are two main types of land tenure systems; namely the formal and informal. The formal land tenure system comprises of leaseholds and freehold tenures. The State Land's Act 1991, provides for granting of leases over state lands. Under this legislation women are equally as eligible for such a grant. However, the Act does not address the special needs of women.

The acquisition of customary land under the informal system remains a complex issue for women. A study commissioned by AAITG, found that 73% of Gambian women did not own land.<sup>21</sup> It was also found that in all the communities studied, land is communally owned but controlled by men. Traditionally, women have full access to the lowlands where rice is grown while men dominate the upland. This situation is found in most parts of the country particularly in areas where rice cultivation is heavily practiced such as LRR, NBR, CRR-North and South, and URR north. In addition, women's access to land is limited because they can only access it, so long as they live in their family home or are married to their husband.

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<sup>21</sup> AAITG 'Women's Access and Ownership' 2012.

The right to housing is a directive principle of state policy. This means that it is not justiciable. There is limited constitutional protection and enforcement of socio-economic rights in The Gambia. The Women's Act under Section 49 provides for the rights to adequate housing.

Although there are schemes and programmes implemented by both Government and other bodies aimed at eradicating poverty, the resulting constraints in education, health, income, voice and legal rights prevent women from participating effectively in national development.

#### **THEME 6; RIGHT TO PEACE; ARTICLE 10**

The Gambia is a party to UNSCR 1325 which calls on peace keeping operations to incorporate a gender perspective in all their work and the maintenance of gender equality at all levels of the entire mission. In line with this obligation, Gambian women security personnel have participated in a number of peace-keeping missions both in and outside the region.

The Government of The Gambia continues to implement programmes and initiatives aimed at ensuring the full participation and representation of women in peace processes; including the prevention, resolution, management of conflicts and post conflict reconstruction.

#### **Achievements and Progress Made since 2012**

- The Gambia National Action Plan (GNAP) on the United Nations Security Council Resolution 1325 adopted in 2012 continues to guide Governments efforts to ensure the full and effective participation of women in peace processes. The GNAP focuses on three main pillars: Prevention, Protection, and Participation. Under each of these pillars, strategic issues have been developed for the realization of each relevant article under the UNSCR 1325 as it affects the national context of The Gambia.
- Efforts are been made geared towards attaining the UN Secretary General's target for 50% female representation at managerial and decision making levels of peace support operations. Security institutions in the country such as The Gambia Police Force have several women at or above the Superintendent rank. The Immigration Department has had at least three high ranking women officers while the Prisons sector also boasts of two senior women Officers,

including a female officer who ascended to the apex rank of Commissioner. The Gambia National Army also has demonstrated gender sensitivity in the senior command echelons.

### **Civil society contribution**

The West African Peace Building Network (WANEP) continues to be instrumental in conflict prevention initiatives for sustainable peace and development. It has a membership of 30 civil society organizations and maintains focal points in each of the 5 regions. It provides tailor-made training programmes for Government stakeholders, security forces, civil society including grassroots communities. WANEP-The Gambia has been providing capacity on peace education, early warning and early response and peacebuilding monitoring and evaluation.

The Gambia's military spending is relatively, the lowest in West Africa. According to the CIA's rank order of military expenditure, The Gambia is ranked among the bottom list of countries with the lowest military expenditure, ranking 167 out of 170 countries..

### **Constraints**

Despite the increased participation of women in peace keeping missions abroad, The Gambia is yet to attain the 50% level required by the United Nations Resolution.

The Gambia is yet to ratify the ECOWAS Convention on Small Arms and Light Weapons.

## **THEME 7: PROTECTION OF WOMEN IN ARMED CONFLICT- ARTICLE 11**

The Gambia Commission for Refugee (GCR), which is responsible for the security and protection of refugees in The Gambia, has been in existence since 2008. The Commission in its bid to provide a good protection environment to refugees issues visitors pass (laissez passer), refugee ID cards and conventional travel documents to refugees which enables them to move freely within the ECOWAS member states.

However, the Commission is constrained in its efforts to safeguard the interests of refugees due to inadequate funds and logistics. The country also lacks transit centres for refugees and asylum seekers in both the rural and urban areas.

The Government, in realization of the precarious situation of refugees and being mindful of its commitments under international law and domestic legislations continues to heavily invest in refugee management issues with a view to providing them with favourable protection as they search for the most appropriate durable solution.

The Government through the Ministry of Health and Social Welfare, provides refugees equal access and treatment in terms of cost of treatment in all Government hospitals and health facilities as accorded to its citizens.

The refugee host communities have been assisting refugees to integrate locally in The Gambia by providing them with land to build their homes and to farm on. Furthermore, the United Nations High Commission for Refugees facilitates the local integration of refugees through various livelihoods support.

During the Senegalese refugee influx in 2011 from Cassamance, Senegal, the Government provided material assistance such as food, shelter, clothing and free medical care. Senegalese refugees from the region of Cassamance numbering around twelve thousand (12,000), form the greater part of refugee population in The Gambia.

The Gambia has signed the Optional Protocol to the Convention on the Rights of the Child in 2000 but is yet to ratify and domesticate same. However, as a party to the CRC and the ACRWC, The Gambia has taken into consideration the need for the protection of the child and as such, children below the age of 18 are not recruited as soldiers or other law enforcement agencies. The Gambia, although, unlike many of her neighbours in the sub-region, has not experienced the direct consequences of armed conflict. In December, 2016, the country was in fear of a conflict when President Jammeh refuses to accept the election results and step down. The country was in a state of panic which resulted to women fleeing the country with their children to neighbouring Senegal for fear of conflict.

## **THEME 8. RIGHTS OF SPECIALLY PROTECTED WOMENS GROUPS**

### **8.1 Widows**

There are both constitutional and legislative measures that have been put in place by the Government of The Gambia to protect the rights of widows and their right to inheritance.

Section 44 of The Women's Act 2010, provides protection for the Widow's Rights; including the right not to be subject to inhuman, humiliating or degrading treatment. Widows are also given the primary custody of

their children after the death of their spouse, unless it is proven not to be in the best interest and welfare of the child. The Women's Act also provides that a widow has the right to an equitable share in the inheritance of property of her husband and to continue to live in the matrimonial home or the previous matrimonial home if it belongs to her or if she inherited it.

## **8.2 Elderly women**

In The Gambia, there is no specific legislation for the protection of the rights of the elderly, but there exists a National Social Security policy which was formulated in 2011 and validated in 2014. The elderly are also entitled to the rights protected under Chapter IV of the 1997 Constitution of the Republic of The Gambia. Their rights are also protected by international and regional instruments on Human Rights signed by The Gambia; in particular the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons, The Pensions Act and Social Security and Housing Finance Act provide for the protection of the economic, and social rights of the elderly.

It is estimated that the elderly constitute 3.5 percent of the population of The Gambia. Under the closely-knit family settings in The Gambia, majority of people live in an extended family setting, thus the elderly are most often in the care of their family members.

The National Social Protection Policy contains a number of strategies aimed at improving the welfare of the elderly, through increased financial allocation to meet their needs in the national budget, provision of health care services, reproductive care and social services. The National Social Protection Policy has also adequately addressed the care needs of elderly person, with measures to strengthen standards and practice for the support of the welfare of elderly persons.

A National Steering Committee on Social Protection was established in 2011. The committee is chaired by the Office of the President and hosted at the Department of Social Welfare. The committee meets quarterly since 2011 and has so far held four National Consultative Forums. The fact that the office of the president chairs the committee is a clear manifestation of the Government's commitment to the rights of the elder in the area of social protection. Training on Social Protection is provided to the members of the committee who are representatives of Inter-Sectorial agencies; with a focus on the socio-economic welfare protection of the elderly.

The Department of Social Welfare has also increased its financial resource allocation to provide welfare services to the elderly. This has resulted to an increase in service delivery to more destitute elderly persons, in spite of the ever growing demands of such services.

The Government has also put in place preventive and protection services for the welfare of the elderly person fostering the promotion provision of reciprocal family care for the elderly person. A Family strengthening program to support family and care givers of the elderly person in the form of cash transfer is being provided by the Department of Social Welfare and its partners such as Aging with a Smile, Munazamat Al-dawa Al Islamia, and Saint Vinci de Paul.

In addition, Free Residential care services are available for destitute elderly persons. The Government also offers financial support to home base care services through the Department of Social Welfare.

Furthermore, the elderly also receive some free health care services, such as free non-communicable disease screening and mobility aids and assistive devices at no cost. However, for services that require fees to be paid, medical bill waivers for health care services are available for the destitute elderly.

The review of the Pensions Act, 1950 is currently at an advanced stage to reform the existing law regarding Pensions. It is expected that these reforms will provide better retirement benefits for the elderly.

### **8.3 Women with disability**

Section 31 of the Constitution provides that “the right of the disabled and handicapped to human dignity shall be recognized by the State and society”. It provides further that “disabled persons shall be entitled to protection against exploitation and to protection against discrimination, in particular as regards access to health services, education and employment” and “in any judicial proceedings in which a disabled person is a party, the procedure shall take his or her condition into account”.

A directive principle of state policy further enjoins the State to pursue policies that protect the rights and freedoms of the disabled and other vulnerable members of society to ensure that such persons are provided just and equitable social opportunities.

The Gambia has ratified the Convention on the Rights of Persons with Disabilities and has made strides in some areas. There are three recognized specialized schools for persons with disabilities: St. John's School for the Deaf, Methodist Special School for children with Learning Difficulties and GOVI resource centre providing an education service for the visually impaired. A number of Government agencies have been addressing the rights of persons with disabilities. These include the Ministry of Basic and Secondary Education, the Social Welfare Department, the Ministry of Youth and Sports, etc.

The National Planning Commission is also currently in consultation with the Disabled Peoples' Organization and The Gambia Federation of the Disabled to mainstream disability into Government's Poverty Reduction Strategy. The Gambia Plan of Action on the African Decade for Persons with Disabilities is in the process of being endorsed. More than thirteen non-Government organizations and associations have also been working on issues affecting persons with disabilities. Additionally, the Persons with disabilities Bill 2018 which is a domestication of the United Nations Convention on the Rights of Persons with Disabilities, has been drafted and is in the process of being finalised before it is tabled before the National Assembly.

#### **8.4 Women in distress**

Section 55 of the Women's Act 2010 provides for the special protection of women in distress and highlights that it is the obligation of the Government to take appropriate measures to protect destitute women, women who are heads of families including women from marginalised population groups with an environment that is conducive to their physical, economic and social needs. Additionally, the Section 55 (b) provides that the Government shall protect the right of pregnant or nursing women or women in detention by providing a conducive environment taking into account their condition and their right to be treated with dignity.

#### **Achievements and Progress Made since 2012**

##### **Government**

The provisions of Women's Act relating to inheritance and property rights of women continue to be enforced by the Courts on an equitable basis.

##### **Civil Society**

FLAG continues to employ a dynamic approach to women's rights advocacy aimed at securing gender equality in The Gambia and ensuring access to justice for women and girls whose rights are violated.



## **Constraints**

Legislation relating to customary and religious remain a very difficult and mammoth task, and have always been met with great resistance by all stakeholders including men and women. There is need to solicit women's input into necessary changes in legislation relating to personal laws as well as involve men.

Lack of knowledge of personal law and sufficient qualified personnel to preside over sharia cases remains a challenge. FLAG in addressing the problem of inadequate legal practitioners to represent women in the Cadi Courts, had trained 11 members on Sharia law. These trained lawyers continue to represent women before the Cadi Court, thus, ensuring that legal services are provided in order to ensure that their rights are enforced. Inheritance in The Gambia is a matter of personal law, which does not always prescribe equality but rather equitable treatment.