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# NATIONAL HUMAN RIGHTS POLICY AND ACTION PLAN

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## THE GAMBIA



*Empowered lives.  
Resilient nations.*

## **FOREWORD**

Preparation of this National Policy and Action Plan on Human Rights signals commitment of the Government of The Gambia towards the fulfillment, respect, observance, of human rights for all persons in the country.

The Policy supports Chapter Four of the 1997 Constitution, which calls for respect and promotion of fundamental human rights and freedoms of persons by all organs of the Executive and its Agencies, the Legislature and, where applicable to them, by all-natural and legal persons in The Gambia and shall be enforceable by the Courts under the Constitution.

The Government with support from the PBF funded joint OHCHR-UNDP Transitional Justice and Human Rights Project in 2020, embraced a highly participatory and consultative approach in the development of this Policy and Action Plan, conscious that the success and credibility of this national undertaking is largely depended on the broad support it received from all stakeholders.

While recognizing the obligation on the State towards the fulfillment of all human rights, this does not make the unreasonable demand that all of them must be realized immediately. In recognition of resource constraints, it allows for progressive realization and the setting of priorities among certain group of rights, particularly economic, social and cultural rights. Therefore, this Policy and Action Plan addresses certain priorities for action, reflecting The Gambia's most immediate human rights challenges.

I, therefore, call on our development partners, the NGOs, the private sector, the National Human Rights Commission and Civil Society Organizations, and all other stakeholders to collaborate in the policy implementation process to guarantee the meaningful realization of rights for our people.



**Mr. Dawda A. Jallow**  
**Hon. Attorney General & Minister of Justice**

## **Executive summary**

The Government of The Gambia with support from the PBF funded joint OHCHR-UNDP Transitional Justice and Human Rights Project developed this National Policy and Action Plan on Human Rights for 2021-2025, in recognition of its primary responsibility to observe, respect, protect, promote and fulfill rights and fundamental freedoms under the 1997 Constitution.

The purpose of the National Policy and Action Plan is to provide a comprehensive and coherent framework that elaborates broad human rights principles to guide the Government and other actors in carrying out their work in a way that enhances the enjoyment of rights by all the people in The Gambia.

The Government's commitment to the realization of all human rights is derived from a rights-based Constitution and the numerous regional and international human rights instruments that The Gambia is party to. It articulates important human rights principles and standards that are not only important for the well-being of individuals and communities but also essential components of economic and social progress.

For our commitment to translate into the concrete realization of rights for the people in The Gambia, all public policies, programs, and budgets of the Government must be sensitive to and in compliance with human rights principles and standards recognized in the Constitution and various legislations.

The Gambia has experienced several challenges since 1994, which has greatly affected the realization of human rights for the people of The Gambia. These challenges, which include inequality, poverty, diseases, and corruption, require significant political, social and economic commitment to realize a useful societal transformation based on respect for human rights, democracy, equality, and rule of law.

While the government has made great strides over the years to improve the human rights situation of the people, these efforts have been hampered by the lack of a comprehensive framework to create cross-sectoral and cross-agency collaboration and coherence in the many policies, programs, and plans that have been developed.

The Government has thus prepared this National Human Rights Policy and Action Plan 2021-2025 with the clear understanding that to deliver on its human rights agenda, we need an overarching comprehensive and coherent framework that integrates and mainstreams human rights principles in national development planning, implementation, and evaluation in all sectors.

This policy is built around universally recognized and accepted principles of human rights as follows:

**Universal and Inalienable:** The principle of **universality** of human rights is the cornerstone of international human rights law. All human beings are born free and equal in dignity. All human

or other status, and cannot be taken away. They are guaranteed to everyone because they are human.

**Indivisible and Interdependent:** There is no hierarchy of rights. All human rights have equal status. The denial or violation of one set of rights or rights will violate or impede the enjoyment of other rights.

**Equality and Non-discrimination:** All human beings are born free and equal. Freedom from discrimination is what ensures equality.

It also identifies challenges and shortcomings that hinder the realization and enjoyment of human rights in the country since the country gained independence in 1965 and specifies the key strategic areas of intervention to address these challenges.

This Policy will be implemented through a five-year action plan. The Plan outlines specific priority action areas and outcome indicators to measure progress in the realization of human rights. It is the fundamental duty of every stakeholder to observe, respect, protect, promote and fulfill human rights and therefore the Plan identifies these actors and designates specific responsibilities for the realization of particular rights.

# NATIONAL HUMAN RIGHTS POLICY AND ACTION PLAN- THE GAMBIA

## OUTLINE

The National Human Rights Policy and Action Plan (NHRPAP) is divided into 4 parts:

1. Introduction and background information on the human rights situation in The Gambia  
This Part gives a historical perspective and a sense of human rights in the Gambia during the pre-colonial era, under the regime of Sir Dawda Kaira Jawara, era of Yahya A.J.J Jammeh and the current regime of President Adama Barrow.

2. Discussion on rights in the Constitution, the Women's Act and Children's Act  
This Part discusses the rights guaranteed in the Constitution and other laws, gaps, challenges encountered in enforcing these rights and what the key priority areas should be will be discussed. The rights of vulnerable groups (including women, person with disabilities, the youth, older persons etc.) will also be examined.

3. Overview of The Gambia sub-regional, regional and international human rights commitments  
This Part looks at all sub-regional, regional and international human rights instruments binding on The Gambia and efforts taken by The Gambia Government to give effect to these instruments.

4. The Action Plan  
This Part would identify priority with respect to the rights discussed in the previous Part and further identify activities that need to be implemented to give full effect to these rights. The Action Plan, which is in tabular form, describes objectives the objectives, programmes to be implemented with respect to the identified objectives, priority actions, timeframes, means of verifications of actions taken, agencies responsible for implementation of identified programmes and priorities and risks involved in implementing programmes and priorities.

## PART 1: INTRODUCTION AND BACKGROUND

The Gambia is the smallest country in mainland Africa. In 1821, The Gambia became a British colony and formed part of the British West African settlements under the jurisdiction of the Governor of Sierra Leone at the time. In 1888, it became a separate colony.<sup>1</sup> The Gambia has experienced human rights violations and has had challenges in the realisation of human rights throughout its history. The colonial period was characterised by both political and socio-economic human rights violations mainly perpetuated by the colonisers against the pre-colonial powers, authorities and the populace.

On 18 February 1965, The Gambia became independent and embraced a multi-party system of democracy. During the period following independence, The Gambia was regarded as a forerunner in the protection and promotion of human rights in Africa under the leadership of the then President, Sir Dawda Kairaba Jawara. Sir Dawda played an important role in the promotion and protection of human rights in Africa, particularly in convening the two Ministerial Conferences in Banjul,<sup>2</sup> where the draft African Charter on Human and Peoples' Rights was adopted and subsequently submitted to the Organisation of African Unity's (OAU) Assembly. It is for this historic role of The Gambia that the African Charter is also referred to as the 'Banjul Charter'. While Sir Dawda was celebrated for his contribution to the development of human rights in Africa, throughout his regime, there was no national human rights institution or commission mandated to monitor human rights compliance by the State. Also, during his leadership, poverty elevated to worse levels than the colonial era while nepotism and corruption heightened within the Government.<sup>3</sup> In 1981, this disgruntlement by the populace, compounded by other factors led to a violently attempted *coup d'état* led by KuKoi Samba Sanyang. The Gambia, which had no standing army at the time, enlisted assistance from Senegal to neutralise the coup. Hundreds of people were reportedly killed, several arrested and a few imprisoned for years.<sup>4</sup>

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<sup>1</sup> A Hughes & D Perfect, *Historical Dictionary of The Gambia* (2008) fourth edition.

<sup>2</sup> The first Ministerial Conference was held from 9-15 June 1980 while the second Ministerial Conference was held from 7-19 January 1981.

<sup>3</sup> A Darboe '*The Gambia (1994-present)*' Available at <https://www.nonviolent-conflict.org/gambia-1994-present/> (Accessed 1 October 2020).

<sup>4</sup>As above.

After 30 years of rule in the Gambia, in July 1994, a military coup led by Yahya A.J.J. Jammeh, overthrew the democratically elected Government of Sir Dawda Kairaba Jawara. Subsequently, after a two-year military regime, The Gambia returned to civilian rule in 1996 and promulgated a new Constitution in 1997, which came into force in January of that year.

Although the 1997 Constitution provides for participatory democracy, separation of powers, judicial independence and respect for and protection of fundamental human rights, the Jammeh regime was characterised by gross human rights violations including wrongful dismissals, enforced disappearances, inhuman and degrading treatment, torture and extrajudicial killings. This was an era characterised by dictatorial rule.<sup>5</sup>

During Jammeh's 22 years of dictatorial rule, his political opponents, journalists and human rights defenders were systematically targeted and subjected to arbitrary arrests and detention without due process being followed. Torture was widespread and routine; people were killed with impunity; sexual violence was perpetrated against women in detention by state actors,<sup>6</sup> the Judiciary lacked independence and was filled with "mercenary" Judges.<sup>7</sup> Freedom of speech and expression were under attack with severe restrictions faced by the media to make publications and or broadcasting of any critical views of the Government of Jammeh. Jammeh also, through legislation, restricted the activities of the media. The Newspaper Act 1994, imposed severe penalties on private publications that failed to pay a yearly registration fee. The National Media Communication Act 2000, sought to force journalists to reveal confidential sources to police and the judiciary on demand. In December 2004, the Criminal Code (Amendment) Bill 2004 introduced long prison terms for defamation and sedition. The Newspaper (Amendment) Bill 2004 also required newspaper proprietors to purchase expensive operating licenses and forced them to register their homes as security.<sup>8</sup> Journalists were harassed and media houses were significantly weakened and intimidated leading to many going into

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<sup>5</sup> Amnesty International 'Gambia: Sharp deterioration of human rights in 21st year of President Jammeh's rule' (2015). Available at <https://www.refworld.org/docid/55af72be4.html> (accessed 10 October 2020).

<sup>6</sup> Amnesty International 'Dangerous to dissent, human rights under threat in The Gambia' (2016).

<sup>7</sup> J Smith & D Rice, 'To ensure its democratic transition, Gambia will need justice- and reconciliation', World Politics Review. Available at <http://www.vanguardafrica.com/blog/2017/5/2/to-ensure-its-democratic-transition-gambia-will-need-justiceand-reconciliation-world-politics-review-may-2> (accessed 25 April 2020).

<sup>8</sup>Note 6 above.

exile. These resulted to and created a broader climate of fear that extended to other sections of society, in which the dominant response was one of self-censorship. This was underpinned by the failure of authorities to respect legal safeguards leading to massive human rights violations.

Political parties in The Gambia during the Jammeh regime were faced with severe restrictions to their right to peacefully organise political rallies and demonstrations. There was selective use of laws such as the Public Order Act which was used frequently to deny permits for opposition parties to conduct their rallies and processions, while arrests of those who have previously sought to organise assemblies provided a further deterrent to others. There was a long history of targeting of human rights defenders, through arbitrary arrests, detentions and threats. This resulted in civil society organisations being reluctant to focus on or speak out about issues of human rights violations considered as sensitive by the Jammeh Government. There was widespread practice and perception of unlawful surveillance by the National Intelligence Agency and police which further contributed to self-censorship, intimidation and fear.

On 10 and 11 April 2000, The Gambia saw the killing of 14 students and a journalist by Gambian armed security personnel during a student demonstration following the death of a colleague and the alleged rape of a girl by security personnel. Jammeh was accused of ordering the shooting of students while on a trip to Cuba. The allegations were however, denied by the Jammeh Government. A Government inquiry concluded that the Police Intervention Unit (PIU) officers were largely responsible for many of the deaths and other injuries. Both the official coroner's report and inquiry report were not widely publicised by the Government.<sup>9</sup> The Government enacted a law indemnifying those implicated in the killing of the students. Officers identified as perpetrators of these violations have still not been prosecuted.

In July 2005, on the orders of Jammeh, fifty-six (56) West African migrants whose boats were traced on Gambian waters bound for Europe were summarily executed by the informal paramilitary group

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<sup>9</sup> United States Department of State, 'U.S. Department of State Country Report on Human Rights Practices 2000 – The Gambia' (26 February 2001). <https://www.refworld.org/docid/3ae6aa901c.html> (Accessed 2 October 2020).



known as the “Jungulers”. According to local media report in 2009, Jammeh’s government rather attributed the massacres to rogue elements acting on their own behalf.<sup>10</sup> Following the gruesome death, the bodies were thrown into a well across the border into the Senegalese region of Casamance, as testified by some members of the “Jungulers” during the ongoing Truth, Reconciliation and Reparations Commission public hearings.

In January 2007, Jammeh claimed to have knowledge of treating HIV/AIDS with the aid of natural herbs. He called it the President's Alternative Treatment Program (PATP). He forced his patients to discontinue their anti-retroviral drugs while parading them on National TV. Jammeh’s PATP resulted in the violation of patients’ right to health and other human rights such as the violation of the right to privacy. The disclosure of information and identity of person living with HIV/AIDS exposed them to discrimination and persecution within the communities and societies they lived in. The programme also undermined patient autonomy and confidentiality. In addition, Jammeh created a climate of fear that intimidated health care workers and policy personnel working on HIV and AIDS thus affected the quality of health care services for people living with HIV/AIDS. In August 2007, Jammeh also claimed to have developed a single dose herbal infusion that could treat high blood pressure and treatment for infertility in women as part of the PATP. Like his HIV/AIDS patients, women were subjected to intimidation and harassment with no control or autonomy over the content of the broadcasting made over National television and websites about this programme.

In 2009, Jammeh embarked on a witch hunt, that is, people suspected of witchcraft were forced to drink concoctions that allegedly sent dozens to their graves. Over three thirds of the victims were old people according to testimonies made before the Truth, Reconciliation and Reparations Commission (TRRC). The youngest who testified before the TRRC was in his late forties when he was captured. The witch hunt tactic was used to intimidate Jammeh's opposition and create a culture of fear and terror. While Jammeh's regime used the police force to repress and kill citizens, members of the force also suffered from these witch hunts. Officials within The Gambia security sector

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<sup>10</sup>K Jeffang ‘15 Years On, Ghana’s Hunt for Jammeh Intensifies’ *Chronicle* (22 July 2020). Available at <https://www.chronicle.gm/15-years-on-ghanas-hunt-for-jammeh-intensifies/> (Accessed 2 October 2020).

including the police, army and the president's personal protection guards accompanied the 'witch doctors' as they carried out their campaign. Many were forced to confess to being witches and wizards. In some cases, they were also severely beaten, almost to the point of death while others passed away after they were released.<sup>11</sup>

In August 2012, the Gambia shocked the international community when nine (9) death row inmates at the Mile 2 central prison were arbitrarily executed under the dictates of Jammeh. Until this day, the burial site has not been made known despite a UN Human Rights Council resolution on March 2012 calling on states that carry on executions, to either return the bodies or disclose the burial sites. The families of the executed prisoners have still not received the bodies of their deceased persons to give them a befitting burial. Two out of the nine executed prisoners were foreign nationals.

Jammeh's disregard for human rights ignored the recommendations of regional and international human rights mechanisms. For example, during the 2014 Universal Periodic Review (UPR), the Human Rights Council in its concluding observations made numerous recommendations to the Government of the Gambia. Amongst them, was to accelerate the process of the establishment of a National Human Rights Commission in accordance with the Paris Principles. Neither this recommendation, nor any of the recommendations of other international and regional mechanisms were honoured by Jammeh and his government. Similarly, the recommendations made by the African Commission on Human and Peoples' Rights in both the cases of *Jawara v The Gambia*<sup>12</sup> and *Purohit v The Gambia*<sup>13</sup> were ignored by the Jammeh Government and left unimplemented. In August 2014, two United Nations Special Rapporteurs Christof Heyns, the Special Rapporteur on Extrajudicial, Summary or Arbitrary executions, and Juan Mendez, the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment were invited by The Gambia Government to investigate human rights issues and examine whether the country's laws are in conformity with international standards. However, on their arrival, the Government denied them access to certain sections of the first prison the two Special Rapporteurs attempted to visit. They offered instead a guided tour to parts of the prison, informing them that under no circumstances would they be allowed to visit the Security Wing, where the death row prisoners were held.<sup>14</sup>

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<sup>11</sup>Global Voices 'The Gambia confronts nightmare with witch hunt under former regime' (28 November 2020). Available at <https://globalvoices.org/2019/11/28/the-gambia-confronts-the-nightmare-of-witch-hunts-under-former-regime/> (Accessed 1 October 2020).

<sup>12</sup> Communication No. 147/95.

<sup>13</sup> Communication No. 241/2001.

<sup>14</sup>'The Gambia: UN human rights team prevented from completing torture and killing investigations'. Available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15267&LangID=E> (accessed 30 October 2020).

In December 2016, The Gambia became the newest democracy in Sub-Saharan Africa and began transitioning following the end of the Jammeh dictatorship after he lost the elections to President Adama Barrow. 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 has undertaken key legal reforms to consolidate the democratic gains made by The Gambia. The Government of The Gambia has resolved to improve the country's human resources capacity, legal and institutional framework as well as the quality of its strategies, policies and programs in various governance areas and align the entire governance architecture with international justice and human rights standards. This includes the formulation of the National Development Plan, one of the strategic priorities of which is on human rights and good governance. The Government has shown some commitment to international legal treaties by complying with judgments against it issued by the ECOWAS Community Court of Justice.<sup>15</sup> The Government has also made efforts by submitting all outstanding reports to the African Commission on Human and Peoples' Rights and The Human Rights Committee. It has also ratified legal instruments such as the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty<sup>16</sup>; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>17</sup>; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)<sup>18</sup>; and the Convention for the Protection of All Persons from Enforced Disappearance (CED)<sup>19</sup>

The Bertelsmann Transformation Index (BTI) 2020 country report for The Gambia, ranks The Gambia at 60 out of 137 on status index and 27 out of 137 in governance index.

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<sup>15</sup> These include judgments in the cases of Chief Ebrima Manneh v. The Republic of The Gambia, Deyda Hydara Jr. v. The Gambia and Federation of African Journalists (FAJ) and others v. The Gambia

<sup>16</sup> Ratified on 28 September 2018.

<sup>17</sup> As above.

<sup>18</sup> Ratified 28 September 2018.

<sup>19</sup> As above.

In December 2017, the Government established a National Human Rights Commission in line with the Paris Principles with the dual mandate of promoting and protecting human rights in The Gambia. In February 2019, the five Commissioners were sworn into office by the President and the Commission effectively started its work.

This NHRPAP is therefore important in promoting and consolidating human rights and democracy in The Gambia, and a means of reversing the massive human rights violations the country has undergone. The NHRPAP is also important in creating a more just society by creating more comprehensive, coordinated and coherent mechanisms and funding necessary for the full realisation of human rights and democracy in The Gambia.

### **GOAL OF THE POLICY**

The NHRPAP seeks to establish and strengthen a culture of human rights in The Gambia. The main goals are to respect, protect, promote and fulfil human rights in accordance with national laws and regional and international instruments ratified by The Gambia. It also seeks to deepen linkages between human rights and development strategies and by implementing activities and programmes necessary to achieve this goal. The NHRPAP captures civil and political rights as well as economic, social and cultural rights. The effective implementation of the National Human Rights Policy through the Action plan will therefore help improve the human rights situation in The Gambia.

### **OBJECTIVES OF THE HUMAN RIGHTS POLICY AND ACTION PLAN**

To pursue the above goals, the NHRPAP sets the following specific and strategic objectives:

1. To improve the human rights situation in The Gambia by promoting the respect for, protection and fulfilment of human rights by the State and to improve the status of marginalised and vulnerable groups in The Gambia.
2. To strengthen the capacity of the state actors and non-state actors alike in respecting, protecting, promoting and fulfilling human rights in The Gambia.
3. To promote understanding, tolerance, gender equality, and peaceful co-existence among all groups in the country.

4. To mainstream human rights and promote human rights-based approaches in planning, implementing and monitoring national development policies and plans
5. To ensure consistency between The Gambia's national laws and its regional and international human rights obligations.
6. To increase awareness and understanding of human rights amongst population groups and amongst the general public.
7. To provide a needs assessment on issues of human rights and to formulate strategic activities or actions that promote human rights in The Gambia.
8. To coordinate existing human rights initiatives in various sectors and facilitate joint and cost-effective management.
9. To mobilise national and international resources in order to protect and promote human rights.

## **HUMAN RIGHTS POLICY PRINCIPLES**

This policy is built around universally recognised and acceptable principles of human rights and they are as follows:

**Universal and Inalienable:** The principle of universality of human rights is the cornerstone of international human rights law. All human beings are born free and equal in dignity. All human rights inherently belong to each individual by birth, and cannot be taken away. Human Rights are given to persons by virtue of the fact that they are human and not on the basis of law.

**Indivisible and Interdependent:** There is no hierarchy of Rights. All human rights have equal status. The denial or violation of one set of rights or right will violate or impede the enjoyment of other rights.

**Equality and Non-discrimination:** All human beings are born free and equal. Freedom from discrimination is what ensures equality.

## **IMPLEMENTATION OF THE NATIONAL HUMAN RIGHTS POLICY AND ACTION PLAN**

The NHRPAP are developed to guarantee the meaningful achievement of human rights at all levels and to enhance the respect, observance, protection, promotion, and fulfilment of human rights in The Gambia.

The implementation of NHRPAP is the responsibility of not just one agency, but the collaborative effort of all key local actors. This includes government ministries, departments, agencies and local government authorities, civil society organisations, private sector, academic institutions and all other stakeholders. In the implementation process by the relevant ministries and departments, it is expected that these bodies will integrate and institutionalise the human rights activities and include them in their respective medium-term work plans and roll them over in their respective Annual Work Plans and Budgets.

The Ministry of Justice, with support from the National Human Rights Commission will take ownership and the lead in implementing this Policy and Action Plan. These bodies will strive to ensure that the relevant ministries, departments and other stakeholders across the country attach great importance to the NHRPAP and based on the principle of “each performing its own functions and sharing the work and responsibilities,” that the relevant actors have incorporated the Plan into their work and adopted effective measures to implement it. These will have to implement the Action Plan by mobilising necessary resources and infrastructure as required. It is therefore the responsibility of the Ministry of Justice and The National Human Right Commission to enlist the support of all agencies that have the mandate of human rights protection.

To achieve the objectives, the NHRPAP requires financial resources and stable budgetary support. To this end, the government will ensure that resources are mobilised in its budgetary plans to support the mainstreaming of human rights in planning and budgetary process in the various Government Ministries, Departments and Agencies.

Development Partners will play a supportive role in the implementation of the Plan. They should continue to work closely with key local actors to ensure the activities suggested in the Action Plan are implemented as planned. By the use of the existing national systems and processes,

development partners may provide financial, technical and other support in the implementation, monitoring, and evaluation of the Policy and the Plan of Action. A system of data collection with respect to implementation of the NHRPAP will also be put in place.

CSOs play a critical role in supporting states to implement and monitor human rights. Ensuring participation of civil society, and in particular, of persons with disabilities is critical. The role and responsibilities of CSOs will include, building local capacity and empowering communities; participating in policy development, monitoring and evaluation at national and community level; mobilising and enhancing community participation; and mobilising community resources towards achieving the objectives of the NHRPAP.

It is important that this NHRPAP is reviewed every five years to take into account the current and future needs of The Gambia in view of the Political, social economic, and global dynamics in the area of human rights. The action programmes specified in the Action Plan will be implemented by various government and local government bodies, national and international agencies, bilateral and multilateral donors and development partners that work to support NHRPAP and programs.

The Ministry of Justice is in charge of the monitoring and implementation of the NHRPAP. All implementing agencies will be required to provide timely, sufficient and appropriate information about the activities they are meant to implement. Monitoring information will also be disseminated and published to all implementation agencies, partners and donors. If needed, the Ministry of Justice may propose to relevant stakeholders to make necessary changes and additions to the NHRPAP.

#### **AREAS COVERED BY THE POLICY AND ACTION PLAN**

This Policy and Action Plan cover rights guaranteed under Gambia law as well as those covered by regional and international treaties ratified by The Gambia.

## PART 2: DISCUSSIONS ON HUMAN RIGHTS GUARANTEED IN GAMBIAN LAWS

### 1. Protection of the right to life

Section 18 of the 1997 Constitution of The Gambia prohibits the taking away of a person's life intentionally. In other words, the right to life is not an absolute right. As such, a person's life can only be taken in the "execution of a sentence of death imposed by a court of competent jurisdiction in respect of a criminal offence for which the penalty is death under the Laws of The Gambia." These include offences that involve or are administered by toxic substances, resulting in the death of another person.

In the same vein, a person is not regarded as having been arbitrarily deprived of his or her life if he or she dies as a result of<sup>20</sup>-

- i. Defending any person from violence or for the defence of property
- ii. In order to effect a lawful arrest or to prevent the escape of a person lawfully detained
- iii. For the purpose of suppressing a riot, insurrection of mutiny
- iv. In order to prevent the commission by that person of a criminal, or
- v. If her or she dies as a result of lawful act of war.

Section 5 of the Women's Act also guarantees the right to every woman to respect for her for her life and integrity and security of her person. It further provides that the death penalty shall not be carried out on any woman who is pregnant or nursing a child.

Section 6 of the Children's Act guarantees the right of children the right to life, survival and development. The right to life has long featured in international, regional and domestic human rights instruments. The right to survival and development "enriches the basic right to life and addresses a long-standing division in international human rights: that between civil and political rights, on the one hand, and economic, social and cultural rights, on the other."<sup>21</sup>

Section 218(1) of the Children's Act bars the imposition of the death penalty on children. This provision safeguards the fundamental right to life.

The death penalty was abolished in 1993 by the Death Penalty (Abolition) Act 1993. it was however reinstated in 1995 by Decree No. 52 entitled the Death Penalty (Restoration) Decree 1995. Among the reasons given for the restoration of the death penalty were "since the abolition of the death penalty in The Gambia, there has been a steady increase of cases of homicide and treasonable offences which, if not effectively checked, may degenerate into a breakdown of law and order" and

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<sup>20</sup> Section 18(4) of the 1997 Constitution of The Gambia.

<sup>21</sup> E. Sutherland *The Child's Right to Survival and Development: Evolution and Progress*. Available at <file:///C:/Users/user/Downloads/SutherlandTheChildsRighttoLifeSurvivalandDevelopment2015.pdf>,



that the duty dawned on the State is to “provide adequate mechanisms for the security of life and liberty of its citizenry thereby maintaining law and order and ensuring greater respect for individual human rights.”

Thus, even though The Gambia ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (OPT2), it has not yet abolished the death penalty as required by this treaty. The death penalty therefore continues to be in force, but it is only applicable for treason, murder, and some offences in the Gambia Armed Forces Act and the Anti-Terrorism Act where “the offence resulted in death, or the administration of any toxic substance, resulting in the death of another person.”

There was only one official execution in The Gambia in 1985 before the execution of 9 inmates on death row in August 2012. The decision in May 2019 to commute the death sentences of all 22 prisoners on death row to life imprisonment is an important step but this still falls short of the complete abolition of the death penalty in The Gambia. The imposition of the death penalty is still mandatory in some instances. Concrete steps aimed at a complete abolition of the death penalty should therefore be undertaken by the Government. This would be in line with the growing worldwide move towards a complete abolition of the death penalty and The Gambia’s commitment under the OPT2.

Even though The Gambia has seen significant improvements in the protection and respect for the right to life, there have been reports of arbitrary deprivation of the right to life by law enforcement officials.<sup>22</sup> The grounds on which a person may be deprived of his or her life under section 18(4) are not in line with international and regional standards.

## **2. Protection of right to personal liberty**

Section 19 protects the right to personal liberty by, inter alia, prohibiting arbitrary arrests and detentions. First, a person cannot be subjected to arbitrary arrest and detention. The concept of arbitrariness applies to both the law under which a person is arrested or detention that includes elements of appropriateness, injustice, and lack of predictability and due process of the law. An arrest or detention may be arbitrary if the law is arbitrary or the actions of the arresting police officer are arbitrary. Thus, an arrest or detention which is lawful may nonetheless be arbitrary under section 19 if the law under which the person is arrested and or detained is vague, overly broad, or is in violation of other vested rights in the Constitution.

By virtue of section 19(2) of the Constitution, a person arrested, restricted or detained is entitled to be informed within three hours, in a language he understands, of the reasons of his arrest or detention and of his right to consult a legal practitioner.

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<sup>22</sup> These include the June 2017 Kanilai Incident (1 killed), June 2018 Faraba Banta Incident (3 killed) and May 19 Kanilai Incident (1 shot).

Where a person is arrested upon reasonable suspicion of his having committed or being about to commit a criminal offence and such a person is not released, he must be brought before a court within seventy-two hours after the arrest, and that person shall not be further detained save upon the order of court

Any person who is arrested and or detained is entitled to a fair trial within a reasonable time otherwise that person should be released either unconditionally or upon reasonable conditions.

Section 215 of the Children's Act provides that where a child offender is brought before a Court, the Court shall ensure that the proceeding is conducive to the best interest of the child and is conducted in an atmosphere of understanding which allows the child to participate and express himself or herself freely. Section 215 further provides the personal liberty of the child is restricted only after careful consideration of the case, including the use of alternative methods of dealing with the child, and the restriction is limited to the possible minimum. The Court should also ensure that the child offender is not deprived of his or her personal liberty unless he or she committed murder or a serious offence involving violence against another person, or has persistently committed other serious offences, and there is no other appropriate response that will protect the public safety. In all cases, the well-being of the child is the guiding factor in the consideration of his or her case, according to section 215 of the Children's Act. In cases involving children, detention pending trial shall be used as a measure of last resort and for the shortest possible period of time for according to section 212 of the Children's Act.

Section 210 of the Children's Act prohibits the detention of a child with an adult person and further provides that a female child shall, while in custody, be under the care of a female officer. In sentencing an expectant or nursing mother, section 218(2) of the Children's Act requires the court to consider the imposition of a non-institutional sentence as an alternative measure to imprisonment.

While the Constitution and the Children's Act prohibit arbitrary arrests and detention and further guarantee the right of any person to challenge the lawfulness of arrest or detention in court, there are still laws including the National Intelligence Agency Act and the Economic Crimes Act that give the Government broad powers to detain suspects without charge for long period of times. The 72-hour time limit provided for in section 19 of the Constitution is also not always complied with.<sup>23</sup>

### **3. Protection from slavery and forced labour**

Section 20 protects persons from slavery and forced labour. It states in subsection 1 that "No person shall be held in slavery or servitude." As per section 20(3), the expression "forced labour" does not include"

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<sup>23</sup> H Nyang 'Gambia: Omar Touray Detained for More Than 72 Hours', *Foroyaa* (5 February 2019). Available at <https://allafrica.com/stories/201902060437.html#:~:text=Section%2019%20of%20the%20Constitution,before%20a%20court%20of%20law> (accessed on 26 October 2020); 'Soldiers held without trial threaten 'new Gambia' reputation' *ArabNews* (19 November 2020 ). Available at <https://www.arabnews.com/node/1195821/world> (accessed 26 October 2020).

- i. Any labour required in consequence of a sentence of order of court;
- ii. Labour required of any person while he or she is lawfully detained
- iii. Any labour required of a member of a defence force in pursuance of his or her duties as such or, in the case of a person who has conscientious objections to service as a member of any naval, military or air force, any labour which that person is required by law to perform in place of such service
- iv. Any labour required during a period of public emergency.
- v. Any labour reasonably required as part of reasonable and normal communal or other civic obligations

Section 4 of the Women’s Act provides that no woman shall be held in slavery or servitude or required to perform forced or compulsory labour.

Section 41 of the Children’s Act prohibits engaging children in exploitative labour which is defined as labour which deprives of the child of his or her health, education or development. Sections 42 and 44 prohibit engaging a child in night work and hazardous work respectively.

Sections 39 and 40 of the Children’s Act further prohibit child trafficking and slave dealing involving children.

Section 28(2), read together with section 2 of the Trafficking in Persons Act prohibits trafficking forced labour and exploitation of persons, including children.

Although slavery, forced labour and trafficking in persons are outlawed and the Government has, among other initiatives, set up the National Agency Against Trafficking in Persons and has further adopted various policies addressing human trafficking, there are still reports of Gambian women being subjected to forced labour and sex trafficking, especially in the Middle East.<sup>24</sup> Child labour is also common despite the prohibition. The Gambia is a popular destination for refugees and immigrants escaping conflict in neighbouring countries like Senegal. This leads to a greater risk of unaccompanied children in the country, who are vulnerable to forced labour and other forms of abuse. Children are still trafficked to and from adjacent countries for commercial or sexual exploitation.<sup>25</sup>

#### **4. Protection from Torture and other forms of cruel inhumane and degrading treatment or punishment**

Section 21 protects the right to security of the person by, inter alia, prohibiting torture and other forms of cruel, inhuman or degrading treatment or punishment. The content of this right raises at

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<sup>24</sup> DM Badjie ‘Gambia: National Response on Human Trafficking’, *The Point* (7 September 2020) <https://allafrica.com/stories/202009080427.html> (accessed 26 October 2020).

<sup>25</sup> 10 Facts About Child Labour in The Gambia, The Borgen Project. Available at <https://borgenproject.org/10-facts-about-child-labor-in-the-gambia/> (accessed 26 October 2020).

least two issues directly related to the pre-trial phase and sentencing stage of a criminal trial process.

Firstly, it shall not be lawful for a criminal suspect to be subjected to torture in any way either during arrest or while in detention. The term “torture” would generally cover any act which causes severe pain or suffering and is intentionally inflicted on a person to obtain information or a confession, as punishment for an act that person has committed or is suspected of having committed, or to intimidate or coerce that person, or for any reason based on discrimination of any kind at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. Torture encompasses a variety of methods including severe beatings, electric shock, sexual abuse and rape, prolonged solitary confinement, extreme hard labour, near drowning, near suffocation, mutilation, and hanging for prolonged periods. Thus, while reasonable force is required to compel submission to an arrest; no force than is reasonable proportionate is in the circumstance will offend section 21.

Secondly, in passing sentence on a convicted criminal, it shall not be lawful for the Court to impose a punishment that amounts to torture and other forms of cruel, inhuman or degrading treatment or punishment. In this regard the imposition of corporal punishment of 30 strokes of cane on a 75-year-old convict in terms of s. 30(1) of the Criminal Code, will not only violate s. 30(2) (c) of the same Code, but would also amount to cruel and inhuman punishment. Admittedly, the corporal punishment of whipping the convict generally appears to be in conflict with the provisions of s. 21 of the Constitution.

Section 4 of the Women’s Act provides for the right to dignity of every woman and further prohibits subjecting any woman to amounts to torture and other forms of cruel, inhuman or degrading treatment or punishment.

Section 6 of the Women’s Act further protects women from any form of physical, sexual, psychological or economic harm, suffering, or violence whether occurring in public or private life. Section 6 further obliges all Government Departments, agencies, organs, public or private institutions to take appropriate measures to promote and protect women’s right and their legal status from any form or abuse.

Section 14 (3) of the Women’s Act imposes an obligation to Government to put institutions and policies in place to address, *inter alia*, violence against women and to practical steps to redress, *inter alia*, violence against women. While there have been significant improvements in the protection and respect for this right, there have been sporadic reports of torture against and by law

enforcement officials.<sup>26</sup> Corporal punishment is also still permissible under the Criminal Code and the Prisons Act.

## 5. Protection from deprivation of property

Section 22 of the Constitution provides protection from deprivation of property. It protects properties from being taken compulsorily except when the taking of such property is necessary in the interest of defence, public safety, public order, public morality, etc; where the necessity affords reasonable justification of the causing of any hardship that may result to any person having any interest in or right over the property, and provision is made by law applicable to that taking of possession or acquisition.

Section 11 of the Women's Act also grants every woman the right to acquire and own property and also to administer, manage and dispose of, the property freely without restrictions. This right can be obtained either by means of inheritance or otherwise.

Section 41 of the Women's Act also gives the women the right to acquire her own property and to administer and manage it freely.

Arbitrary deprivation of property is very rarely reported. There have not been any recent reported cases of forced evictions. Rent tribunals have also been set up to look into disputes between landlords and tenants.

## 6. Right to Privacy

Section 23 protects the right to privacy by, inter alia, prohibiting searches of the person or his home except as otherwise directed by a competent judicial authority or where delays in obtaining such judicial directives may occasion grave prejudice and in strict compliance with law that guarantees protection from abuses. The content of this right raises at least two issues directly related to the pre-trial phase of a criminal trial process.

Firstly, a search of a person or his home may only be conducted under the power of a warrant issued by a competent judicial authority. Secondly, a warrantless search may only be conducted if it can be

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<sup>26</sup> 'Gambia's Vows to Investigate Police Torture, Brutality,' *The Voice*. Available at <https://www.voicegambia.com/2019/07/29/gambias-vows-to-investigate-police-torture-brutality/> (accessed on October 26, 2020); See also, Y Jallow 'Gambia: Ex-GPA Employee Alleges Torture by NIA for Supporting UDP', *Foroya* (24 February 2020) <https://allafrica.com/stories/202002250518.html> (accessed 26 October 2020); Also see 'Police Accused of Torture, Cover-Up', *Standard Newspaper* (27 July 2020). Available at <https://standard.gm/police-accused-of-torture-cover-up/> (accessed 26 October 2020).

demonstrated that delays in obtaining a warrant posed a serious danger of prejudicing the object of the search.

The right of children to privacy is guaranteed in section 10 of the Children's Act. This includes family life, home and correspondence. Sections 72 and 205 of the Children's Act also guarantees the right to privacy. In particular, section 205 of the Children's Act provides that the right of the child to privacy shall be respected at all stages of child justice administration in order to avoid harm being caused to the child by undue publicity or by the process of labelling.

The right to privacy can be limited in accordance with law and if it is necessary in a democratic society or the economic well-being of the country, for the protection of health and morals, for the preventions of disorder or crime or for the protection of the rights and freedoms of others.

Even though the Constitution guarantees the right to privacy, there are still laws giving security agencies sweeping powers in conducting searches. "Unchecked surveillance of ICTs remains a concern in The Gambia due to the legal and technological frameworks put in place by the former regime."<sup>27</sup> The Information and Communications Act gives "sweeping powers to national security agencies and investigative authorities to monitor, intercept, and store communications in unspecified circumstances". The Public Utilities Regulatory Authority is also given the authority to "intrude [sic] communication for surveillance purposes," all without judicial oversight. In addition, the law imposes onerous data retention requirements and further requires service providers to "implement the capability to allow authorized interception of communications."<sup>28</sup>

## **7. Provision to secure protection of the law and fair trial**

Section 24 protects the right to fair trial by providing, inter alia, that, the accused be informed immediately in a language he understands as to the nature of the offence charged; no person shall be convicted for criminal offence unless the offence is defined and the penalty prescribed by law; an accused be afforded adequate facilities for his defence; and the general question of the right of an accused person to be given reasons by the trial court for convicting him of a criminal offence.

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<sup>27</sup>The Freedom House, 'Freedom on the Net 2018 – Gambia', (1 November 2018). Available at <https://www.refworld.org/docid/5be16b184.html> (accessed 26 October 2020).

<sup>28</sup> As above.

It provides for the constitutional framework for the presumption of innocence and the right from self-incrimination in criminal investigation and trials. In addition, section 24 introduces two important principles; the principle of legality and the principles of non-retroactivity of crime.

First, a crime is not a crime unless otherwise expressly provided by law. Therefore, a person cannot be investigated and or prosecuted for actions unless those actions were punishable as crimes under the laws of The Gambia at the time such actions occurred. This also means that no penalty or punishment can be imposed on a convicted person which is more severe in degree or description than the maximum penalty that could have been imposed for that offence at the time of the commission of the offence. The mandatory right to counsel in capital offence cases further strengthens the fair trial rights of the accused.

The principle on the non-retroactivity of crimes ensures that no ex-post facto laws or punishments are allowed. Therefore, a law cannot be applied retroactively to punish conduct that was not criminal at the time of its commission.

The right to counsel is guaranteed in section 24 (3) (d). This constitutional provision makes it mandatory for persons charged with offences punishable with death or life imprisonment to be provided with legal aid at the expense of the State. Sections 12 and 30 of the Children's Act and the Legal Aid Act also make it mandatory for legal aid to be provided at the expense of Government to children involved in any matter (civil or criminal). Persons who earn not more than such minimum wage as the Government may specify and desire legal representation in any civil or criminal matter may be entitled to legal aid at a date to be fixed by the Attorney General. This provision of the Legal Aid Act is to become effective on a date to be named by the Attorney General which has not happened yet.

Section 7 of the Women's Act provides for the rights of women to equality and justice before the law and to equal protection the law. In particular, section 7 provides that in civil matters, women have legal capacity identical to that of men and the same opportunities to exercise that capacity and further that women shall be treated in all stages of the procedures in courts, tribunals and other judicial proceedings. Section 7 of the Women's Act further deems as null and void all contracts and all private instruments aimed at restricting the legal capacity of women. The Government is also obligated under section 7 to ensure that women are equitably represented in the Judiciary and law enforcement organs of the State.

In trials involving children, section 214 of the Children's Act provides that the observance of the right to fair hearing, and compliance with due process shall be observed. This requires the child justice system to respect the legal status of the child, promote the best interest and well- being of the child, and avoid harm to the child. Section 215 of the Act further requires proceedings involving children to be conducive to the best interest of the child and to be conducted in an atmosphere of understanding which allows the child to participate and express himself or herself freely.

Section 204 of the Children's Act further provides that a child shall not be subjected to the criminal justice process or to criminal sanctions for adults.

Even though the right to fair trial is guaranteed in the Constitution and other laws and there is a National Agency for Legal Aid, legal aid is a very limited in its scope and application in that it is only available to children in conflict with the law and persons charged with offences punishable with death or life imprisonment. The Gambia also continues to maintain the reservation it made to article 14 (3) (d) of the ICCPR, despite improvements made in its legal aid law since the ratification of the ICCPR. The reservation (the only reservation made by The Gambia at the regional and international level) seeks to limit the scope of legal aid in The Gambia.

Detainees and prisoners are also not always notified of their right to consult a lawyer and long pre-trial detentions remain a problem despite the efforts on the part of the Judiciary and the Ministry of Justice to decongest the court. Many criminal cases get adjourned due to lack of enough judicial personnel to preside over them.

## **8. Freedom of speech, conscience, assembly, association and movement.**

All these rights are provided for in section 25 of the 1997 Constitution and other laws. The right to freedom of speech is guaranteed in section 25 (1) (a) of the Constitution. This provision gives every person the right to freedom of speech and expression which includes freedom of the press and other media.

Section 8 of the Women's Act guarantees every woman's right to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

A child capable of forming views has the right to express an opinion to be listened to and to participate in decisions which affect his or her well-being, the opinion of the child being given due weight in accordance with the age and maturity of the child, according to section 17 of the Children's Act.

The right to freedom of thought, conscience, and belief is guaranteed in section 25 (1) (b) and (c) of the Constitution and these include academic freedom, freedom to practice any religion and to manifest such practice.

Section 25 (1) (d) of the Constitution guarantees the right to assemble and demonstrate peacefully without arms.

Section 25 (1) (e) of the Constitution guarantees the right to freedom of association, which includes freedom to form and join associations and unions, including political parties and trade unions. Section 107 of the Labour Act also provides for the rights of workers and employers to establish and join workers' and employers' organizations of their own choice. The Labour Act does not however apply to the Civil Service, the Gambia Armed Forces (except those employed in a civil capacity), the Police, Security Service or Prison Service (except those employed in a civil capacity) or domestic service.



Freedom to petition the Executive for redress of grievances and to resort to the Courts for the protection of his or her rights is also guaranteed in section 25 (1) (f) of the Constitution.

Section 25 (2) of the Constitution further guarantees the right of every person lawfully within The Gambia to move freely throughout The Gambia, to choose his or her own place of residence within The Gambia, and to leave The Gambia. The right of every Gambian citizen to return to The Gambia is also guaranteed in section 25 (3) of the Constitution.

Notwithstanding, the rights guaranteed in section 25 of the Constitution shall only be exercised subject to the laws of The Gambia so far as those laws imposes reasonable restriction on the exercise of the rights and freedoms conferred which are necessary in a democratic society and are required in the interest of the State, national security, public order, decency or morality, or in relation to contempt of court.

For instance, in the Supreme Court case of *Ousainou Darboe & 19 Others v. Inspector General of Police & 2 others*, the court held that the grounds set out in section 25(4) of the Constitution and section 5 of the Public Order Act are reasonably justifiable in a democratic society so long as they remain reasonable restrictions or limitations and not abolition of the right.

On freedom of speech, the Supreme Court held that section 178, 179, and 180 of the Criminal Code are inconsistent with the constitutional guarantees of free speech and freedom of the press and other media as respectively enshrined in section 25(1)(a) and (b) and section 207 of the Constitution. That the restrictions they place in the exercise of those rights and freedoms are neither reasonable or necessary in a democratic society, particularly in the context of the Constitution.

As such, the constitution and other laws permit the imposition of restrictions on the exercise of the rights in section 25 and other fundamental human rights under specified circumstances.

## **9. Political rights and participation**

Section 26 gives every citizen of The Gambia that is of full age and capacity the right to, inter alia, vote and stand for elections at genuine periodic elections for public office, which election shall be by universal and equal suffrage and be held by secret ballot, and take part in the conduct of public affairs, directly or through freely chosen representatives.

Section 14 (3) of the Women's Act imposes an obligation to every Ministry, Government department, agency or organ of Government to take all adequate measures in their areas of competence to ensure full and equal participation of women.

There have not been any recent reports of political persecutions or violations of political rights. Women, persons with disabilities and other marginalised groups and communities are, however, not adequately represented in politics and in decision making process. Gambians in the diaspora continue to play a very significant role in national development but have not been able to vote,

especially in presidential elections. This has thus limited the participation of this group in the political and decision-making processes in The Gambia.

## **10. Right to marry and family life**

The right to marry is guaranteed under section 27 of the Constitution. It gives men and women of full age and capacity the right to marry and found a family. It also states that marriage shall be based on the free and full consent of the intended parties. The Women's Act has a similar provision in section 35 but adds that marriage so contracted is voidable.

Section 34 of the Women's Act provides that a woman and man shall enjoy equitable rights as equal partners. This provision further imposes an obligation on the Government to promote the protect the rights of woman in a marriage and family. An obligation is also imposed on Government to encourage parties to a marriage to record their marriage in writing and have it registered in accordance with the law.<sup>29</sup>

The rights of a married woman to retain her name and her nationality and to have equal rights with respect to the nationality of her children are provided for in sections 37-39 of the Women's Act. The right to joint responsibility for children is also guaranteed in the Women's Act.<sup>30</sup>

A woman's right to acquire her own property and manage it freely is also guaranteed in section 41 of the Women's Act. The right of husband and wife to choose their matrimonial home and place of residence by mutual agreement is guaranteed in section 42 of the Women's Act, but this is subject to personal law. Section 43 of the Women's Act also provides that women shall enjoy equitable rights as men in case of separation, divorce or annulment of marriage, but subject to personal law.

Section 44 of the Women's Act guarantees a widow's right not to be subjected to inhuman, humiliating and degrading treatment and the right to automatically become the guardian or custodian of her children after her husband's death, unless this is contrary to the interests or welfare of the children. This section also guarantees a widow's right to remarry the person of her choice, but subject to personal law. Section 44 further provides for a widow's right to an equitable share in the inheritance of the property of her husband and the right to continue to live in the matrimonial home, but both rights are subject to personal law.

Section 45 of the Women's Act also guarantees the right of a man and a woman to inherit their parents' properties in equitable shares, but subject to personal law.

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<sup>29</sup> Section 36 of the Women's Act 2010.

<sup>30</sup> As above Section 40.

By extension, subject to the provisions of any applicable law, section 24 of the Children's Act prohibits a child from contracting a valid marriage and a marriage so contracted is said to be voidable.

Section 25 of the same Act also prohibits parents, guardian or any other person from betrothing a child to any person, make a child a subject of a dowry transaction; or give out a child in marriage.

Unlike the Constitution, the Children's Act defines a child as person under the age of eighteen years.

Although the Constitution provides that marriage should be voluntarily entered into by men and women of "full age and capacity" and the Children's (Amendment) Act prohibits child marriages and betrothals, child and early marriage for girls is still practiced. The 1997 Constitution recognises Sharia, as part of the laws of The Gambia. Sharia law (personal law) is applicable to Muslims and Islam has prescribed for matters of adoption, marriage, including polygamy, divorce and inheritance. These are the socio-cultural realities of Gambian life and in setting standards and norms, the religious beliefs of people must be considered to avoid not only the infringement of their rights but also a backlash and rejection of the standard setting instruments. The problem, however, is the lack of knowledge for the majority of women of their rights in Islam.<sup>31</sup>

## **11. Rights of women**

On the rights of women, the Constitution under section 28 gives women the full and equal dignity as men. It also accords women the right to equal treatment with men including equal opportunities in political, economic and social activities. More women's rights including civil, political, economic, social and cultural rights are guaranteed in the Women's Act.

The Government is required to protect poor women and women who are heads of families including women from marginalised populations according to section 55 of the Women's Act. The Government is further required to provide pregnant and nursing women or women in detention with an environment suitable for their condition. Section 33 of the Women's Act requires Government agencies and private institutes to take into account the challenges faced by rural women and also the roles rural women can play in the economic survival of their families, and in the informal monetized sectors of the economy. They are also mandated to ensure that all appropriate measures are taken to eliminate discrimination against women in rural areas so as to ensure that they benefit from rural development projects and also participate and have access to other social and economic development of their respective communities.

Section 33 Subsection (4) of the 1997 prohibits all forms of discrimination based on sex. However, this provision is made subject to subsection (5) which excludes protection from discriminations that emanate from laws of adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law. These laws are a major cause for concern.

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<sup>31</sup> Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, Committee of Economic, Social and Cultural Rights, 6 November, 2013.

Policies have been established to foster gender equality in the social, cultural, economic, and political spheres, including The Gambia National Gender Policy (2010-202) 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. 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. To reduce Gender Based Violence, the Sexual Offences Act and the Domestic Violence Act were enacted to safeguard the dignity, integrity, liberty, and security of women.

Despite these efforts made by the government, socio-economic and legal inequalities continue to prevent the achievement of gender equality and leave women in The Gambia at a disadvantaged position. Women continue to face challenges such as access to land, particularly for farming purposes. This is due to traditional land tenure system which prevents women from having full control over the use and ownership of land. While women's access to credit facilities have improved, it still falls below that of men. In some situations, particularly in the rural areas, women may access such credit facilities, but may not control its use as a result of existing of socio –cultural barriers.

## **12. Rights of Children**

The rights of children as per section 29 include the right to a name, the right to acquire a nationality, and to know and be cared for by their parents. Children under the age of sixteen years are also 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 health.

In the same vein, a juvenile offender who is kept in lawful custody shall be kept separated from adult offenders.

The Children's Act also gives a child the right to a name that every child shall be registered in accordance with the provisions of the relevant law. The same Act also a child the right to acquire a nationality. Other rights include the right to health and health care services, right to privacy, right to parental care, protection and maintenance, right to protection against harm, right to education etc.

The Children's Amendment Act 2016 prohibits child marriages and betrothals and imposes a maximum sentence of 20 years for person who cause or force a child to marry. The Women's Amendment Act 2015 also prohibits female circumcision.

While the Government has put in place legislative measures to protect the rights of children in The Gambia, the enforcement of these measures however, remains a challenge. This is largely due to several factors, including economic, social and cultural practices and poverty. Notwithstanding, the

Ministry of Women, Children and Social Welfare has plans to initiate outreach activities targeting children living in poverty and unaccompanied children from the sub-region around the Tourism Development Area, market places and car parks engaged in petty trading or in the transportation system. In the past, such children would be taken to the drop-in centres for counselling and educational support. However, these services are no longer operational.<sup>32</sup>

About 25% of children age 5-17 in The Gambia are child labourers. The proportion of children engaged in labour is substantially higher among children in rural communities than children in urban areas. Children in rural communities and the poorest quintiles are more subjected to child labour.<sup>33</sup> Violence against children remains a challenge. About 89.2% of children aged 1 to 14 years have experienced some form of violent discipline while 81% of children aged 1 to 14 years experienced psychological aggression as a form of discipline.<sup>34</sup>

Female genital mutilation and child marriages continue to persist despite the existence of law banning them. Since the enactment of the laws that prohibit both FGM and child marriage, not a single case has been successfully prosecuted despite the commission of the acts by people in The Gambia.<sup>35</sup> This is largely attributed to the lack of or poor implementation and enforcement of the laws<sup>36</sup>

### 13. Right to education

The right to education is provided for under section 30 of the constitution. It gives every person the right to equal educational opportunities and facilities. Basic education as per section 30 of the Constitution is free, compulsory and available to all; secondary and technical and vocational education shall be made available to all and accessible by every appropriate means; higher education is made equally available to all and in particular, progressive introduction of free education; functional literacy shall be encouraged, and also the development of a system of schools with adequate facilities at all levels shall be actively pursued.

Section 26 of the Women's Act guarantees the right of every woman to basic education and training for self-development. This provision further imposes an obligation on the Government to take all appropriate measures to:

- a. Eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training;

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<sup>32</sup> The Gambia's 2019 Universal Periodic Report submitted to the National Human Rights Council.

<sup>33</sup> The Gambia Multiple Indicator Cluster Survey (2018).

<sup>34</sup> As above.

<sup>35</sup> A Manneh 'Mother 'sorry' after genital mutilation of daughter' *The Standard* (9 July 2020). Available at <https://standard.gm/mother-sorry-after-genital-mutilation-of-daughter/> (26 October 2020).

<sup>36</sup> O Bah 'NHRC says FGM persists despite ban' *The Standard* (13 October 2020), Available at <https://standard.gm/nhrc-says-fgm-persists-despite-ban/> (accessed 27 October 2020).

- b. Eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination;
- c. Protect 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;
- d. Provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;
- e. Integrate gender sensitisation and human rights education at all levels of education curricula, including teacher training;
- f. Promote literacy among women;
- g. Promote education and training for women at all levels and in all disciplines, particularly in the fields of science and technology; and
- h. Promote the enrolment and retention of girl-children in schools and other training institutions and the organisation of programmes for women who leave school prematurely.

The Women's Act prohibits the expulsion of a girl-student from school on the ground of pregnancy.<sup>37</sup> It further prohibits the withdrawal of a girl-child from school for the purposes of marriage.<sup>38</sup>

Section 18 of the Children's Act guarantees the right of every to free and compulsory basic education at the expense of Government. Parents and guardians are also to ensure that their children or wards attend and complete basic education. Section 67 of the Act imposes a duty of the public to report infringement of children's rights, including the right to education. The Department of Social Welfare and the parents of a child are also required to ensure that the child's development while in a residential care home or with a foster parent, particularly his or her education, is attended to.

In a bid to implement the legislative and administrative measures adopted to provide free and compulsory basic education and to realise 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. School Improvement Grant (SIG) which have been introduced in The Gambia has shown a positive stride towards actualising the progressive introduction of free education provided for under the Constitution and in education policies. In addition, the READ Project supported by the World Bank through the Ministry of Basic and Secondary Education provides free textbooks for both boys and girls in schools. 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 in 17 centres countrywide and aims to provide functional literacy and numeracy coupled with life and livelihood skills.

The Education Sector Policy (2016-2030) requires strategic direction for the provision of basic education that is inclusive and not discriminatory. It emphasises on persons with disabilities and

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<sup>37</sup> N 10 above, Section 27.

<sup>38</sup> N 10 above, Section 28.

their special educational needs and requires the provision of support and equipment to enable pupils with low level disabilities to effectively participate in mainstream education. Despite these efforts, disability continues to be a hindrance to enrolment and retention of both girls and boys in schools. “While the situation is improving in the case of children with low level visual and hearing impairments, children with mental, learning and multiple disabilities and those afflicted with epilepsy still face socio-cultural and physical barriers. The few persons with disabilities that attend school face challenges throughout their schooling because of the lack of appropriate infrastructure and the lack of knowledge on how to give access to this group. Even after acquiring an education, it is very difficult for them to obtain employment. This is due to their disability and the fact that most people view disability as an inability to do anything. There also are inadequate special facilities and services to enhance the educational environment of children with disabilities in mainstream schools.”<sup>39</sup>

#### **14. Rights of persons with disabilities**

Persons with disabilities as per section 31 of the Constitution are entitled to protection against exploitation and protection against discrimination as regards health services, education and employment.

Also, in any judicial process, in which a person with disabilities is a party, the procedure shall take into account his or her condition.

Section 54 of the Women’s Act imposes an obligation on Government 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 right to access to employment, professional and vocational training, as well as, their participation in decision making. The same provision requires Government to ensure the right of women with disabilities to freedom from violence, discrimination based on disability and the right to be treated with dignity.

While the Constitution and other laws prohibit discrimination against or exploitation of persons with disabilities, it does not stipulate the kinds of disabilities protected, particularly in respect of access to health services, education, and employment. There are no explicit legal provisions that require access to transportation, nor any requirement to provide for access to buildings for persons with disabilities.<sup>40</sup> Access to health services is also a challenge because of the inclusive service provision at health service points in the country. Health personnel are not oriented on special needs of persons with disabilities. They are treated the same as other people at service points. Access to service points is also impeded by mobility and infrastructural constraints as rehabilitation services are not available in most communities in remote areas. Access to employment and vocational

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<sup>39</sup> S Nabaneh ‘Country report: The Gambia’ (2018) 6 African Disability Rights Yearbook 246. Available at [https://www.researchgate.net/publication/331258803\\_Country\\_report\\_The\\_Gambia\\_2018\\_African\\_Disability\\_Rights\\_Yearbook](https://www.researchgate.net/publication/331258803_Country_report_The_Gambia_2018_African_Disability_Rights_Yearbook) (accessed 28 October 2020).

<sup>40</sup> US Department of State, ‘The Gambia 2019 Country Reports on Human Rights Practices’. Available at <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/gambia/> (accessed 29 October 2020)

training is also a challenge. Most Gambians living with disabilities are marginalised due to the stigma attached to their disabilities. From childhood persons with disabilities are treated differently. As a result, they have no way of obtaining gainful employment to enable them to live independently. The majority of persons with disabilities take up begging for alms as a means of survival.<sup>41</sup>

## **15. Right to culture**

The Constitution grants every person the right to practice, profess, maintain and promote any culture, language, tradition or religion but subject to the terms of the Constitution and on the rights and freedoms of other, national interest, security and unity.

Section 50 of the Women's Act guarantees to right of every woman to live in a positive context and to participate at all levels in the determination of cultural policies. This provision further imposes an obligation on Government to take all appropriate measures enhance the participation of women in the formulation of cultural policies at all levels.

While the constitution and other laws recognise the right to culture, the government has failed to put in place measures to address some cultural practices that are prejudicial to certain groups. For example, in some cultures, there exist the caste system which is a long-standing traditional practice that subject persons perceived as 'slaves' to tedious, and sometimes degrading, jobs for their 'masters' or 'nobles'. This deep-rooted prejudices and entitlement are held firm by members of higher class in some communities, while those on the lowest class face marginalisation, discrimination and violence. While discrimination and discriminatory practices based on tribe, religion, language or other statuses are prohibited in The Gambia, the Government has not taken any steps to remove the caste system and hold accountable persons or communities that continue to dehumanise other members of their communities based on this culture.<sup>42</sup>

In practice women also experience discrimination and inequality due to cultural stereotyping. In Gambian society, the traditional roles of women are still recognised and inequality in the society is taken as given, having been reinforced by the patriarchal nature of our society and male dominance in decision-making positions. Most women are dependent as their role is often affiliated to taking care of the home, children and their male partners.

## **16. Protection from Discrimination**

Protection from discrimination as found under section 33 involves all persons in The Gambia. Every person shall be equal before the law and that no law shall be make any provision that is discriminatory either of itself or in its effect. By extension, persons acting by virtue if any law in

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<sup>41</sup> Nabaneh (n 38) above.

<sup>42</sup> Gambia: As Gambia Grapples with Caste System, NHRC Urges Govt to Address Situation'. Available at <https://allafrica.com/stories/202008190305.html> (accessed 28 October 2020).



performance of the functions of public office or any public authority shall not treat any person in a discriminatory manner. This however does not apply to person with respect.

Discrimination as per section 33(4) of the Constitution is defined as “affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privilege or advantages which are not accorded to persons of another such description.”

In section 10 of the Women’s Act, persons, public institutions or private enterprises are not allowed to discriminate against women through words spoken, acts, inactions, omissions, laws, regulations, or administrative procedures. A person or authority that discriminates a woman commits an offence.

Section 14 obligates the government to promote and protect the rights of women and also take positive measures to eliminate all forms of discrimination against women in all its institutions, agencies, and organs in line with its international obligations. Government is also required to eliminate all forms of stereotypes and acts of discrimination which perpetrate or tends to perpetrate gender inequality, ensure full and equal participation of women, undertake a gender audit of all laws and policies in order to further reinforce the principles of equality between men and women, and mainstream gender perspective in planning and programming of all activities and initiatives.

Section 15 provides similar provisions but in this case, it requires both private and public organs and authorities to adopt special measures as set out in the Act to accelerate de facto equality between men and women. The special measures shall be considered discrimination as defined by the Women’s Act or any other law but shall in no entail, as consequence, the maintenance of unequal or separate standards; and be discontinued when the objectives of equality of opportunity and treatment have been achieved.

While there are many laws that protect all persons from discrimination, the Constitution does not provide for the same legal status and rights for women regarding adoption, marriage, divorce, burial, and inheritance of property. There is indeed no doubt that in The Gambia there are many religious and traditional practices which are discriminatory against women. Apart from customary law, Islamic laws relating to marriage, divorce and inheritance which govern the lives of over 95% of the population is discriminatory against women. In the area of family education and the recognition of the common responsibility of men and women in the upbringing and development of their children, it is traditionally believed in The Gambia that child rearing is the responsibility of the mother. In most cases the men seldom stay at home to care for the children.

The law prohibits discrimination in employment, access to credit, owning and managing a business, or in housing or education. Employment in the formal sector is open to women at the same salary rates as men, and no statutory discrimination exists in other kinds of employment. However, societal

discrimination lingers, and women generally work in such low-wage pursuits as food vending and subsistence farming.

## **17. Right to work**

On the right to work, section 216(6) of the Constitution encourages the State to ensure safe systems of working for people who are employed. Such persons are also entitled to adequate rest, leave and leisure. This however is a directive principle of state policy and not an enforceable right. What this means is that the right to work as highlighted in section 216(6) of the constitution is not a justiciable right but one that is fundamental in the governance of the country. By it being a justiciable right, it also means that it cannot be enforced in court like other enforceable rights.

The Women's Act also makes provisions for the right to work. In section 16 of the Act, it states that every woman has the right to work on the basis of same employment opportunities including the application of the same criteria for selection in matters of employment.

In section 17, it gives every woman the right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and; receive vocational training and retraining including apprenticeships, advance vocational training and recurrent training.

Section 18 of the Women's also gives women the right to equal remuneration, including benefits, equal treatment in respect of work and of equal value, and equality of treatment in the evaluation of the quality of work.

Section 20 of the Women's Act guarantees women maternity leave with pay for a period of six months with comparable social benefit without loss of employment, seniority or similar benefits. The right to protection of health and to safety, in working conditions is also provided for in section 21 of the Women's Act.

Section 22 of the Women's Act bars discrimination against women on the ground of maternity. As per section 23 employers are required to provide necessary supporting social services to enable women combine work and family related matters. Women are also to be provided with special protection during pregnancies in certain employments that are proved to be harmful to them (section 24).

Section 43 of the Children's Act sets the minimum age for work at 16 and defines light work as that 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 the capacity of the child to benefit from school work.

In the same vein, section 44, prohibits children from engaging in hazardous work.

Although the Labour Act provides that workers, except for civil servants, domestic workers, and certain other categories of workers are excluded from the protection of that law, workers are free to form and join independent unions, bargain collectively, and conduct legal strikes. The Labour Act

is however is not effectively enforced. Rights of workers, especially domestic workers, continue to be violated because there are not enough resources to ensure adequate and effective enforcement of labour laws.

## **18. Right to health**

This is provided for in section 226 (4) of the 1997 Constitution not as an enforceable right, but as a directive principle of state policy.

The Women's Act in section 29 provides that every woman has the right to health which includes the enjoyment of the highest level of physical, mental and social well-being, health care and health care services, including those related to family planning and, in particular, every rural woman has the right to access to adequate health care facilities, including information and counselling, subject to personal law. Further, the same section provides that every woman has the right to have access to appropriate services, in connection with pregnancy, confinement and post-partum period, free services, where necessary, as well as adequate nutrition during pregnancy and lactation. The right of every woman to take decisions about her health needs and requirements and the right to determine the processes concerning reproduction in her body in accordance with international best practices are also guaranteed.

The Women's Act in section 30 further guarantees the right of every woman has the right to enjoy reproductive rights, including the right to medical abortion, where the continued pregnancy endangers the life of the mother or the life of the foetus. Where a woman is unable to afford the expenses related to medical abortion, the cost shall be borne by the Government.

The Women's Act in section 31 further imposes an obligation on Government to promote and protect the right to health which includes:

1. The right to have family life education;
2. The right to decide, in consultation with her husband, the spacing of children;
3. The right to choose any method of contraception, that is medically suitable to health;
4. The right to self-protection and to be protected against sexually transmitted diseases, including HIV/AIDS; and
5. The right to be educated on the health aspects of harmful traditional practices.

The Women's Act also imposes an obligation on the Government to take all appropriate measures to:

1. Provide adequate, affordable and accessible health services, including information education and communication programmes to women, especially those in rural areas;
2. Expand and strengthen existing pre-natal, delivery and post-partum, health and nutritional services for women during pregnancy and while they are breast-feeding;
3. Protect the reproductive health rights of women by authorising medical abortion where the continued pregnancy endangers the life of the mother or the foetus;

4. Ensure the availability of skilled attendance during pregnancy, childbirth and the post-partum period for all women on a sustainable basis to reduce morbidity and mortality; and<sup>43</sup>
5. Provide care and protection for women affected by long term complications arising from pregnancy and childbirth processes.

The Children's Act also guarantees the right of every child to "enjoy the best attainable state of physical and mental health" and further places and obligation on the Government, parents, guardians, institutions, services, agencies, organisations or bodies responsible for the care of a children to provide for the children the best attainable state of health.<sup>44</sup>

**19.** Despite Government efforts through existing legislative framework to make health care and services free, accessible, available and of quality, limited financial and human resources continue to affect the provision of quality service delivery. Women continue to die from very preventable deaths while given birth. The country has seen a surge in maternal mortality owing to unavailability of resources or poor infrastructure, facility and equipment. Rural women particularly bear the brunt of this problem. In addition to the facility problems, there are few qualified personnel such as medical doctors in the very few health facilities found in rural communities. Access to family planning and other reproductive services remain a challenge for women, particularly rural women.

## **20. Right to social security**

Social security benefits should be made available to women according to section 19 of the Women's Act. These benefits should be made available in cases of retirement, unemployment, sickness, old age, invalidity and old age and other incapacity to work as well as the right to paid leave.

While the Government may have put in place multiple social protection programmes, these are however mostly small-scale, largely donor-driven and uncoordinated. Social security is also accessible only to a minority of workers in the formal sector. There is no national health insurance or unemployment insurance and no national minimum wage has been legislated.<sup>45</sup>

The Government is continuing its efforts to expand and strengthen the existing social interventions in order to build a national social protection system. In recent years, the Government and development partners have prepared framework documents to guide work on social protection.

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<sup>43</sup> N 10 above, Section 32.

<sup>44</sup> Section 9 of the Children's Act 2005

<sup>45</sup> The Gambia: Social Safety Nets Diagnostic, Report No: AUS0000071, 9 June 2018. Available at <http://documents1.worldbank.org/curated/en/655791528776477628/pdf/The-Gambia-Social-safety-nets-diagnostic.pdf> (accessed 26 October 2020).

## **21. Right to nationality**

Section 29 of the constitution gives children the right to nationality. Likewise, section 8 of the children's Act also gives every child the right to acquire nationality.

The Women's Act under section 38 gives women the right to retain their nationality and by extension to also acquire the nationality of her children. The same Act also extends the right to nationality to children by giving children equal rights as women with respect to nationality.

As such, it is important to note that the right to nationality is only available in the context of children and women.

Even though The Gambia acceded to the 1954 Convention relating to the Status of Stateless persons (1954 Convention) and the 1961 Convention on the Reduction of Statelessness in December 2013 and has laws that guarantee the right to nationality, there are fears that gaps in the nationality laws may lead to statelessness. There is no provision in the country's laws allowing for grant of nationality for children born in The Gambia who would otherwise be stateless. Many children born to refugees in The Gambia are not registered and documented which could render them stateless.<sup>46</sup>

## **22. Right to food security**

The constitution in section 216(4) provides for the right to food security but not as an enforceable right. It is a directive principle of state policy. In that regard, the state should endeavour to facilitate equal access to clean and safe water to all persons.

The Women's Act specifically gives women the right to nutritious and adequate food as per section 48. By extension, the government is mandated to ensure that measures are put in place to provide women with access to clean drinking water, establish adequate systems of supply and storage to ensure food security amongst other things. There are however, no mechanisms in place to monitor the compliance of the Government with this obligation.

## **23. Right to adequate housing**

The right to adequate housing also provided for the constitution under section 216(4) which provides that the state shall provide habitable shelter for all persons. Similar to the right to food security as provided for in the constitution, the right to adequate housing as provided is a directive

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<sup>46</sup> Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: GAMBIA, UNHCR. Available [https://www.upr-info.org/sites/default/files/document/gambia/session\\_20\\_-\\_october\\_2014/unhcr\\_upr20\\_gmb\\_e\\_main.pdf](https://www.upr-info.org/sites/default/files/document/gambia/session_20_-_october_2014/unhcr_upr20_gmb_e_main.pdf) (accessed 26 October 2020).

principle of state policy and not an enforceable right. It not guaranteed in the Gambian Constitution as a fundamental human right available to all Gambians; it is only guaranteed to women.

Section 49 of the Women's Act gives every woman the right to equal access to housing and acceptable living conditions in a healthy environment. To ensure that this happens, the government is mandated to grant women access to adequate housing.

The full realisation of the right to adequately housing is hampered by lack of resources. The Gambia is one of the poorest countries in the world and occupies the 174<sup>th</sup> place out of 189 in the United Nations Development Programme's 2019 National Human Development Index.

#### **24. Protection of women in armed conflict**

Section 47 of the Women's Act mandates the government to respect and ensure respect for the rules of International Humanitarian Law Applicable in armed conflict situations especially those that affect women. This includes asylum seeking women, refugees, returnees, and internally displaced women. Government is also expected to protect these women from all forms of sexual exploitation during armed conflicts and also to ensure that perpetrators are brought to justice before a competent criminal jurisdiction.

#### **25. Right to environment**

The right to environment is provided for in section 215(4) of the constitution as a directive principle of state policy, i.e. is cannot be enforceable in a court of law. It states that the State shall pursue a policy of protecting the environment of the nation for prosperity co-operation with other nations and bodies to protect the global environment.

The Women's Act, however, in section 51 guarantees the right of every woman to live in a healthy and sustainable environment. It further imposes an obligation on the Government to take all appropriate measures to:

1. Ensure greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels;
2. Promote research and investment in new and renewable sources and appropriate technologies, including information technologies and facilitate women's access to, and participation in, their control;
3. Protect and enable the development of women's indigenous knowledge systems;
4. Regulate the management, processing, storage and disposal of domestic waste; and
5. Ensure that proper standards are followed for the storage, transportation and disposal of toxic waste.

Even though The Gambia has a ministry responsible for the environment and climate change and also has laws dealing with the management of the environment and natural resources, the absence of the right to a healthy environment in the Constitution and the weak enforcement of existing laws hamper the enforcement of this right.

## **26. Right to development**

Right to development is also found in section 215(4)(b) and (5) of the constitution. This also is a directive principle of state policy and not an enforceable right. The state is expected to pursue policies meant to promote development ranging from ensuring full and equal participation of women in all sectors, controlling inflation in the country, development agriculture, etc.

Section 52 of the Women's Act gives every health woman the right to fully enjoy her right to sustainable development. By extension, the government must take appropriate measures to ensure inter alia introduce gender perspective in the national development planning procedure, promote women's access to, and control over productive resources such as land and guarantee their right to property, etc.

The Country's development agenda is affected by the lack of resources and rampant corruption. The laws on declaration of assets are in effective because there are no agencies mandated to monitor and verify financial disclosures made by elected public officers and declarations, even if made, they are not released to the public.

## **27. Right of elderly women**

The government according to section 53 of the Women's Act is mandated to take appropriate measures to provide protection to elderly women and also to ensure that the right of elderly women to freedom from violence, discrimination based on age and to be treated with dignity.

While there are legislative measures protecting the rights of elderly women, there are no basic social protections such as specialised care, health insurance, a social safety net or minimum income support and residential care facilities where needed for older women. There is also no mention of older men or their rights in any of laws of The Gambia.

## **28. Right to peace**

Every woman, according to section 45 of the Women's Act has the right to peaceful existence and the right to participate in the promotion and maintenance of peace. It further imposes an obligation on the Government to take all appropriate practical measures to ensure the increased participation of women:

1. In programmes of education for peace and a culture of peace;

2. In the structure and processes for conflict prevention, management and resolution of local, national regional, continental, and international levels;
3. In the local, national regional, continental, and international, decision making structures to ensure physical, psychological, social and legal protection of asylum seekers, refugees, returnees and displaced persons, in particular women;
4. In all levels of the structures established for the management of camps and settlement of asylum seekers, returnees, and displaced persons, in particular women;
5. In all aspects of planning formulation and implementation of post-conflict reconstruction and rehabilitation.

The right to peace is not guaranteed in the Gambian Constitution as a fundamental human right available to all Gambians; it is only guaranteed to women.

### **LIMITATION OF RIGHTS GUARANTEED IN THE CONSTITUTION AND OTHER LAWS**

The rights and freedoms guaranteed in the 1997 Constitution and other laws, however, not absolute. They are to be exercised “subject to respect for the rights and freedoms of others”<sup>47</sup> and “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.”<sup>48</sup> Section 33 of the Constitution also allows discrimination in matters related to personal law. Another general limitation on the exercise of these rights in the Constitution and other laws is the declaration of a state of emergency under section 34 of the Constitution.

The Women’s Act and the Children’s Act also place certain limitations on some rights guaranteed in both Acts. The rights guaranteed in sections 13, 15, 24, 112, 116, 117, 142 and 185 of the Children’s Act and sections 29, 42, 43, 44 and 45 are all ‘subject to personal law.

### **ENFORCEMENT OF FUNDAMENTAL HUMAN RIGHTS**

Section 37 of the Constitution provides for the enforcement of the fundamental human rights provisions provided in Chapter IV of the Constitution through the High Court which may hear and determine any applications made and may make such orders, issue such writs, and give such directions as it may consider appropriate for the purposes of enforcing or securing the enforcement of any of the fundamental rights provisions, including the right to freedom of expression, the press and other media.

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<sup>47</sup> Section 17 of the 1997 Constitution.

<sup>48</sup> As above Sections 22 (1), 23 (1) and 25 (4).



Provisions of the Women's Act shall be enforceable in the same manner as is set out in Section 37 of the Constitution of the Republic of The Gambia 1997, or any successive provisions, according to section 12 (1) of the Women's Act. The Children's Act does not have a provision similar to section 37 of the Constitution and sections 12 Women's Act.

Criminal prosecutions could also be used to enforce the provisions of the Women's Act and the Children's Act. Persons who have contravened the provisions of both laws have committed offences and could be prosecuted.<sup>49</sup>

Criminal proceedings may also be instituted where a human rights violation amounts to the commission of an offence. These could include offences in the Criminal Code, the Trafficking in Persons Act, the Domestic Violence Act, the Women's (Amendment) Act, the Sexual Offences Act and the Tourism Offences Act and the Children's (Amendment) Act.

## **KEY CHALLENGES IN ENFORCING THE FUNDAMENTAL HUMAN RIGHTS GUARANTEED IN THE CONSTITUTION AND OTHER LAWS**

The rights contained in chapter IV of the Constitution in sections 18 to 33 and 36(5) are rights that are enforceable in our courts of Law in The Gambia. Efforts to tackle Fundamental Human Rights has its basis in section 37 of the Constitution which gives the high court the power to hear and determine applications made by any person in respect to violations of human rights provisions in section 18 to 33 and 36(5). Notwithstanding, there exists some challenges in the enforcement of Fundamental Human Rights even with the existence of key constitutional provisions such as section 37.

Firstly, cultural relativism has been and continues to be a hindrance to the enforcement of certain human rights guarantees in The Gambia. Although the constitution has subjected the right to culture to the terms of the constitution and to the rights and freedoms of other, cultural relativism creates challenges in the enforcement of fundamental human rights. No outside value is seen to be superior to that of the local culture. If the culture for instance allows child or forced marriage, then the human right prohibiting child or forced marriage should not prevent such act. Government thus finds it difficult to enforce or even monitor the enforcement of such human rights.

Secondly, there is a high level of illiteracy with regards to what fundamental human rights are. The inability to read and write constitutes a huge challenge in enforcing fundamental human rights in The Gambia. What this implies is that freedom of expression for instance have little meaning to them. There is an urgent need to conduct a country wide civic education sensitization programme especially in the area of rights.

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<sup>49</sup> Sections 78 and 79 of the Children's Act and sections 235 and 236 of the Children's Act.

More than a third of The Gambia's population lives below the U.N. poverty line of \$1.25 per day. Poverty erodes or nullifies not only economic, social and cultural rights, but civil and political rights as well. It therefore remains a major challenge to the realisation of rights that are guaranteed in the Constitution, the Women's Act, the Children's Act and other laws.

The Gambia is a party to regional and international human rights treaties that guarantee economic, social and cultural rights. Most of these rights are, however, not directly enforceable at the local level. Other than the right to education and the right to culture, other economic, social and cultural rights are provided for in the 1997 Constitution, not as enforceable rights but as Directive Principles of State Policy. These principles of state policy form part of the public policy of The Gambia for the establishment of a just, free and democratic society but "shall not confer legal rights or be enforceable in any court". This is a challenge in that the 1997 Constitution does not provide redress for the breach of these rights.

The Constitution does not provide for rules on enforcement of fundamental rights before our courts. At the moment, normal civil procedure rules are used in the enforcement of fundamental rights. These rules are seen as technical, cumbersome and not victim friendly. There is a need to develop less technical victim friendly rules to help victims of human rights violations pursue their cases before our courts.

The Children's Act, unlike the Constitution and the Women's Act, does not have a provision on how rights guaranteed therein should be enforced. This makes it difficult to push for enforcement of rights guaranteed in the Act when they are breached.

The Constitution in section 33, the Women's Act in sections 42, 43, 44 and 45 and the Children's Act in sections 24 and 25 contain limitations which could hinder the enforcement of rights guaranteed therein.

### **PART 3: OVERVIEW OF THE GAMBIA’S SUB-REGIONAL, REGIONAL AND INTERNATIONAL HUMAN RIGHTS COMMITMENTS**

Section 7 of the 1997 Constitution does not include treaties as part of the laws of The Gambia. Section 79 (1) empowers the President to negotiate the conclusion of treaties and international agreement but this is to subject to ratification by the National Assembly. This implies that treaties that have been signed and ratified by The Gambia must be incorporated into the national legal order by way of an Act of the National Assembly of the Gambia to have effect.

The Children’s Act and the Women’s Act are examples of laws domesticating The Gambia’s regional and international commitments with respect to children and women. The table below shows the human rights treaties that have been ratified by The Gambia.

#### **SUB-REGIONAL (ECOWAS) TREATIES**

Treaty	Date of Ratification
Revised Treaty of the Economic Community of West African States (Revised ECOWAS Treaty)	24-07-1993
Protocol A/SP1/12/01 on Democracy and Good Governance Supplementary to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security	25-05-2008
Protocol A/P1/7/91 on the Community Court of Justice signed in Abuja on 6th July, 1991.	26-08-1997

#### **REGIONAL (AFRICA) TREATIES**

NAME OF TREATY	DATE OF RATIFICATION
Constitutive Act of the African Union	22-02-2001
African Charter on Human and Peoples’ Rights (the Banjul Charter)	08-06-1983
Protocol to the African Charter on Human and Peoples’ Rights on the	30-06-1999

Establishment of an African Court on Human and Peoples' Rights	
African Charter on the Rights and Welfare of the Child	14-12-2000
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol)	25-05-2005
Protocol of the Court of Justice of the African Union	30-04-2009
African Union Convention Governing the Specific Aspects of Refugee Problems in Africa	12-11-1980
African Union Convention for the Protection and Assistance of Internationally Displaced Persons in Africa (Kampala Convention)	27-04-2011
African Youth Charter	30-04-09
African Charter on Democracy, Elections and Good Governance	11-06-2018
Protocol on the Statute of the African Court of Justice and Human Rights	11-07-2018

Article 34 of the to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights provides that at the time of ratification of the Protocol or any time thereafter, a State shall make a declaration accepting the competence of the Court to receive cases under Article 5(3) of this Protocol. The Court shall not receive any petition under article 5(3) involving a State which has not made such a declaration. Article 5(3) of the same Protocol provides that the Court may entitle relevant Non-Governmental Organizations (NGOs) with observer status before the Commission, and individuals to institute cases directly before it, in accordance with article 34(6) of the Protocol. The Gambia made the said declaration on February 3, 2020. This means that NGOs with observer status with the African Commission and individuals can now directly file cases against The Gambia before the African Court.

The Gambia is also bound by the Statute on the Establishment of Legal Aid Fund for the African Union Human Rights Organs which was entered into force after it was adopted by the AU Assembly on 30 January, 2016

The Gambia is, however, yet to ratify the following regional treaties:

1. Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (Malabo Protocol)
2. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons
3. Protocol to the African Charter on Human Peoples' Rights on the Rights of Persons with Disabilities in Africa.

Soft law is not binding upon states. However, the soft law clarifies the rights enshrined in treaties (principles, declarations, resolutions, and general comments, concluding observations, etc). Soft laws at the regional level that are relevant to The Gambia include:

1. Indicative questions to State Parties in respect of Article 5 of the African Charter
2. State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment
3. Principles on the Decriminalisation of Petty Offences in Africa
4. The Guidelines on Combating Sexual Violence and its Consequences in Africa
5. Guidelines on Freedom of Association and Assembly in Africa
6. Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa
7. Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights
8. State Party reporting guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (Tunis Reporting Guidelines)
9. Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003
10. Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines), 2008
11. Guidelines for National Periodic Reports
12. Guidelines on the Right to Water in Africa

Pursuant to Article 62 of the African Charter on Human and Peoples' Rights, State Parties including The Gambia are required to submit every two years, a report on the legislative and other measures taken, with a view to giving effect to the rights and freedoms recognized and guaranteed by the Charter. The Gambia submitted its initial report to the Commission covering the period 1986-1992 on October 21, 1992 and it was considered at the Commission's 12<sup>th</sup> Ordinary Session held from 12 – 21 October 1992. The Gambia's 1<sup>st</sup> Periodic Report covering the period 1992-1994 was submitted on 3<sup>rd</sup> November 1994 and considered by the African Commission at its 16<sup>th</sup> Ordinary Session held from October 25 to November 3, 1994. The Gambia's 2<sup>nd</sup> Periodic Report covering the period of 1994-2018 was submitted on 3<sup>rd</sup> September, 2018 and considered at the Commission's Ordinary Session from April 24 to 14 May, 2019. This report, under Part B, also contained the initial report on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

As a State party to the African Charter on the Rights and Welfare of the Child (Children’s Charter), The Gambia is expected to submit an Initial Report to the Committee within 2 years of the entry in force of the Charter for the State Party and thereafter, periodic reports every 3 years pursuant to Article 43 of the Children’s Charter. The Gambia is yet to submit a report to the Committee since it ratified the Children’s Charter in December 2000.

#### INTERNATIONAL (UNITED NATIONS) TREATIES

NAME OF TREATY	DATE OF RATIFICATION/ACCESSION/SUCCESSION
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	28-09-2018
International Covenant on Civil and Political Rights	22-03-1979
First Optional Protocol to the International Covenant on Civil and Political Rights	09-06-1988
Second Optional Protocol to the International Covenant on Civil and Political Rights	28-09-2018
Convention to the Protection of All Persons from Enforced Disappearance	28-09-2018
Convention of the Elimination of All Forms of Discrimination Against Women	16-04-1993
United Nations Convention against Transnational Organized Crime	05-05-2003
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime	05-05-2003
International Covenant on Economic, Social and Cultural Rights	28-12-1978
International Convention on the Elimination of all Forms of Racial Discrimination	29-12-1978
International Convention on Protection of the Rights of Migrant Workers and Members of Their Families	28-09-2018
Convention on the Rights of the Child	08-08-1990

Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	27-09-2019
Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	08-04-2010
Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	03-07-2001
Convention on the Rights of Persons with Disabilities	06-07-2015
Optional Protocol to the Convention on the Rights of Persons with Disabilities	06-07-2015
Freedom of Association and Protection of the Right to Organize Convention	04-09-2000
Right to Organize and Collective Bargaining Convention	04-09-2000
Convention Concerning Forced or Compulsory Labour	04-09-2000
Equal Remuneration Convention	04-09-2000
Abolition of Forced Labour Convention	04-09-2000
Discrimination (Employment and Occupation) Convention	04-09-2000
Convention Relating to the Status of Refugees	07-09-66
Protocol Relating to the Status of Refugees	29-09-1967
Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity	29-12-1978
Convention on the Prevention and Punishment of the Crime of Genocide	29-12-1978
Rome Statute of the International Criminal Court	28-01-2002
Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field	20-10-1966
Geneva Convention for the Amelioration of the Condition of the Wounded and Sick and Shipwrecked Members of Armed Forces at Sea	20-10-1966

Geneva Convention relative to the Treatment of Prisoners of War	20-10-1966
Geneva Convention relative to the Protection of Civilian Persons in Time of War	20-10-1966
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflict (Protocol I)	12-01-1989
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflict (Protocol II)	12-01-1989
Convention on the Reduction of Statelessness	01-07-2014
Convention relating to the Status of Stateless Persons	01-07-2014

**Treaties not yet ratified by The Gambia:**

1. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
2. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
3. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women; and
4. Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.

These treaties provide either for an individual complaints procedure or an inquiry procedure for victims of human rights violations in The Gambia.

**Other treaties that are not yet ratified by The Gambia are:**

1. Convention Against Discrimination in Education
2. Employment Policy Convention



3. Convention concerning Occupational Safety and Health and the Working Environment
4. Slavery Convention
5. Protocol Amending the Slavery Convention
6. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
7. Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others

As required by Article 44 of the Convention on the Rights of the Child, The Gambia submitted its initial report on 20 November 1999 (it was due in 1992) and it was considered in October 2001. The Gambia submitted its second and third period reports (due in 1997) on 28 October 2011 and they were considered in January 2015. The Gambia's 4<sup>th</sup> to 7<sup>th</sup> reports are expected to be submitted in February 2021 for consideration by the Committee.

As required by Article 18 of CEDAW, The Gambia submitted its combined initial, second and third reports to the Committee in April 2003 and they considered in the same month. The combined 4<sup>th</sup> and 5<sup>th</sup> periodic reports were submitted and considered in July 2015. The Gambia is yet to submit the 6<sup>th</sup> report which is overdue.

Soft law instruments at the international level relevant to The Gambia include:

1. Declaration on the Rights of Mentally Retarded Persons
2. Declaration on the Rights of Disabled Persons
3. Principles for the protection of persons with mental illness and the improvement of mental health care
4. Standard Rules on the Equalization of Opportunities for Persons with Disabilities
5. Declaration on Race and Racial Prejudice
6. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
7. Declaration of Commitment on HIV/AIDS
8. Declaration on the Rights of Indigenous Peoples
9. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
10. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)
11. Basic Principles for the Treatment of Prisoners
12. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
13. United Nations Rules for the Protection of Juveniles Deprived of their Liberty

14. Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
15. Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
16. Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
17. Safeguards guaranteeing protection of the rights of those facing the death penalty
18. Code of Conduct for Law Enforcement Officials
19. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
20. United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)
21. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)
22. Guidelines for Action on Children in the Criminal Justice System
23. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)
24. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
25. Basic Principles on the Independence of the Judiciary
26. Basic Principles on the Role of Lawyers
27. Guidelines on the Role of Prosecutors
28. Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions
29. Declaration on the Protection of All Persons from Enforced Disappearance
30. Basic Principles and Guidelines on the Right to a Remedy and Reparation
31. United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)
32. Updated Set of principles for the protection and promotion of human rights through action to combat impunity
33. Declaration on the Human Rights of Individuals who are not nationals of the country in which they live
34. Declaration on the Rights of Peasants and Other People Working in Rural Areas
35. Principles relating to the status of national institutions (The Paris Principles)
36. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms
37. United Nations Declaration on Human Rights Education and Training

38. Declaration on Social Progress and Development
39. Universal Declaration on the Eradication of Hunger and Malnutrition
40. Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind
41. Declaration on the Right of Peoples to Peace
42. Declaration on the Right to Development
43. Universal Declaration on the Human Genome and Human Rights
44. Universal Declaration on Cultural Diversity
45. Declaration on the Protection of Women and Children in Emergency and Armed Conflict
46. Declaration on the Elimination of Violence against Women
47. United Nations Principles for Older Persons – adopted by the Un General Assembly Resolution 46/91 of 16 December 1991.

Treaty bodies at the UN and regional level also publish their interpretations of the provisions of respective human rights treaties. Their interpretations are called General Comments or General Recommendations and they cover issues such as the comprehensive interpretation of substantive provisions, such as the right to life or the right to fair trial, to general guidance on the information that should be submitted in State reports relating to specific articles of the treaties. Treaty bodies that have issued General Comments or General Recommendations include the UN Human Rights Committee, UN Committee on Economic Social and Cultural Rights, UN Committee on the Elimination of Discrimination Against Women, The African Charter on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child.

The UN, especially the United Nations Office on Drugs and Crime (UNODC) has also developed model laws as tools of technical assistance, to assist governments translate their obligations under international treaties, including human rights treaties, into national legislative provisions. The model laws "aim to facilitate the review and amendment of existing legislation as well as the adoption of new legislation. Although some model laws were intended for application in particular legal systems, this is not the case for all model laws, and they rather focus on the substantive obligations arising from the international treaties than on the form, which ought to be tailor-made to the needs of each State. The model provisions are meant to help with, but not to substitute the meticulous process of drafting a law. To the extent permitted by the relevant international conventions, individual States will need to make adjustments to the text to more accurately reflect the fundamental principles of their legal systems and constitutions. The model legislative provisions are accompanied by commentaries, which serve to explain the legal bases for each provision, and to offer as much useful information as possible on each relevant issue."<sup>50</sup> These include model laws on Child Victims and Witnesses of Crime, Model Law on Witness Protection, Model Legislative

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<sup>50</sup> Available at <https://www.unodc.org/unodc/en/legal-tools/model-treaties-and-laws.html>, (Accessed on 1 September 2020).

Provisions against Organized Crime, Trafficking in Persons and Model Law against smuggling of Migrants. The Model Law on Access to Information for Africa is an example of a model law at the Africa level.

The UN Human Rights Council is also mandated to deal with human rights issues pertaining to The Gambia. It is responsible for the protection and promotion of human rights around the world. It can discuss any human rights issue or any human rights situation anywhere in the world and does so using its procedures and mechanisms which include the Universal Periodic Review process, the Complaints Procedure or its Special Procedures.<sup>51</sup>

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<sup>51</sup> These could be country mandates or thematic mandates, for example, Working Group on Arbitrary Detention, Special Rapporteur on the Rights of Person with Disabilities and Independent Expert on the promotion of a democratic and equitable internal order.

**PART 4: NATIONAL HUMAN RIGHTS ACTION PLAN**

**1. Ratification, domestication and implementation of regional and international human rights instruments**

Objectives	Programme	Priority Action	Timeframe	Means of verification	Implementing Agencies	Risk Factors
<p><b>Comply with commitments undertaken by ratifying regional and international human rights treaties</b></p>	<p>Capacity building on relevant human rights treaties for National Assembly Members and other stakeholder holders</p>	<p>Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’                      Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women                      Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights</p>	<p>5 years</p>	<p>Treaties ratified and instrument of ratification deposited at the relevant agency                      Continued improvement in the enjoyment of human rights</p>	<p>The Ministry of Justice                      Ministry of Foreign Affairs                      Office of the President                      National Assembly                      Ministry of Women’s Affairs, Children and Social Welfare                      Ministry of Basic and Secondary Education                      Ministry of Higher Education                      The National Human Rights Commission</p>	<p>Lack of good will or prioritisation by the Government or relevant ministries</p>

		<p>Ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure</p> <p>Ratify the Convention Against Discrimination in Education</p> <p>Ratify the Employment Policy Convention</p> <p>Ratify the Convention concerning Occupational Safety and Health and the Working Environment</p> <p>Ratify the Convention to Suppress the Slave Trade and Slavery; the Protocol Amending the Slavery Convention and the Supplementary Convention on the Abolition of</p>				
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<p><b>Transforming existing national rights legislation to comply with international and regional standards and norms</b></p>	<p>Establish an Inter-Ministry or Agency Committee to review Gambia's regional and international human rights commitments that need to be or have been domesticated</p>	<p>Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery</p>	<p>3 Years</p>	<p>Inter-Ministry or Agency Committee established and fully constituted</p>	<p>Ministry of Justice Ministry of Women's Affairs, Children and Social Welfare Ministry of Defence Ministry of Interior National Human Rights Commission CSOs</p>	<p>Lack of cooperation of the different agencies and political will from the state.</p>
	<p>Amend existing laws to conform with international norms and standards</p>	<p>Conduct a study on all existing laws in relation to international and regional human rights norms and</p>	<p>3 years</p>	<p>Study reports published  Laws amended in line with international and regional human rights norms and standards.</p>	<p>Ministry of Justice  National Assembly Office of The President</p>	<p>Funding constraints to conduct study.  Proposed amendments not approved by the National Assembly Members.</p>

	Effective Implementation and enforcement of regional and international human rights that have been domesticated	Strengthen the capacities of relevant stakeholders responsible for the implementation and enforcement of all laws domesticated by The Gambia. These include;  Women's Act and Women's Amendment Act  Children's Act and Children's Amendment Act  Domestic Violence Act  Sexual Offences Act  Tourism Offences Act	5 years	Improvement in the enjoyment of human rights in the Gambia	National Rights Commission CSOs	Human Rights Commission			
				standards and amend them accordingly.					
				Prosecution of cases relating to domestic legislation  Greater protection of victims of human rights violations by state actors and non-state actors alike	Ministry of justice  Ministry of Defence  Ministry of Interior  National Rights Commission  The Police  CSOs				Lack of Political will or prioritisation by the State.



	<p>Trafficking in Persons Act</p> <p>Criminal Code</p>	<p>3 years</p>	<p>Submission and consideration of all due reports All due reports.</p>	<p>The Ministry of Justice</p> <p>Ministry of Foreign Affairs</p> <p>Office of the President</p> <p>National Assembly</p> <p>Ministry of Women's Affairs, Children and Social Welfare</p> <p>Ministry of Basic and Secondary Education</p> <p>Ministry of Higher Education</p> <p>The National Human Rights Commission</p> <p>CSOS</p>	<p>Cooperation of the different agencies and political will</p> <p>Capacity of the members to draft the reports</p> <p>Funding constraints that may hinder the full functioning and operationalisation of the Committee</p> <p>Lack of cooperation of the different agencies</p>
<p>Strengthen the capacity of the committee on state reporting</p>	<p>Establishment of and effective functioning of the National Mechanism for Reporting and Follow-up (NMRF)</p> <p>Prompt submission of all pending reports.</p> <p>Submit periodic reports to Human rights bodies including the Human Rights Council, UN treaty bodies and AU treaty bodies</p>				

## 2. The Right to Life

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
<b>Ensure the respect, protection and promotion of the right to life</b>	To sensitise the public on the practical requirements of the Right to Life.	Conduct nationwide activities and campaigns to educate the populace about the significance of human rights generally, particularly the respect for and protection of the right to life.	5 years	.  Compliance with this right by state actors  Distinct human rights advocacy campaigns conducted by implementing agencies	The Ministry of Justice  Ministry of Interior  Ministry of Basic and Secondary Education  Ministry of Higher Education  National Human Rights Commission	Lack of Political will or prioritisation by the State.  Insufficient budgetary allocation to implement these activities
	Introduce and strengthen human rights education, training, and advocacy campaigns generally, and include the right to life.	Incorporate human rights education in school curricula from primary to tertiary	5 years	Human rights incorporated into all educational levels.  Human rights incorporated into training programmes for public employees in all sectors.  Human rights incorporated into	The Judiciary  CSOs	
	Strengthen the capacities of all law	Conduct training geared towards	5 years	Human rights incorporated into		

	<p>enforcement officers to make them more effective, efficient and accountable in investigating crimes and human rights violations paramilitary groups to respect the right to life when effecting arrest and investigation.</p> <p>Strengthen the justice system</p>	<p>strengthening the capacities of law enforcement agents already in the system and incorporate in the training curricula of new intakes into the police force or other security sectors.</p> <p>Conduct trainings and programmes that will build and strengthen the capacities and competencies of Judges, Magistrates and other judicial officers on human rights</p>	<p>3 years</p>	<p>training curricula for all law enforcement and paramilitary groups.</p> <p>Trainings conducted for law enforcement and paramilitary groups involved in making arrests.</p>		
	<p>Amendment/repeal of relevant provisions of the 1997 Constitution, Criminal Code, Anti-terrorism Act and The Gambia Armed Forces Act providing for the death penalty.</p>	<p>1 year</p>	<p>Death Penalty abolished.</p> <p>Copy of the law prohibiting the death penalty published in the Gazette</p>			

### 3. The Right to Liberty and Security of Persons

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
<p><b>Ensure protection and promotion of right to personal liberty</b></p>	<p>Review the training curricula of various law enforcement agencies to include the right to personal liberty.</p>	<p>To educate and train police officers and other security and law enforcement agents about the right to liberty and security of person.</p> <p>Ensure that human rights and law enforcement ethics, along with the specific needs of women and girls, are given special attention in police training, especially in the investigative process.</p>	<p>5 years</p>	<p>The police and other law enforcement agents comply with domestic regional and international instruments on the right to personal liberty.</p> <p>Human rights and gender awareness incorporated as a compulsory course at all levels of Police and other law enforcement trainings</p>	<p>Ministry of justice Ministry of Defence Ministry of Interior National Human Rights Commission CSOs</p>	<p>Insufficient budgetary allocation to implement these activities.</p>

#### 4. The Right to Protection from Torture, Inhuman and Degrading Treatment

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure protection from inhumane or degrading treatment	Enactment and enforcement of a law domesticating regional and international instruments on the prohibition of torture.	Train National Assembly Members on the importance of domesticating regional and international instruments on the right to protection from torture, or inhuman or degrading treatment	5 years	Reports of the training programmes	The Ministry of Justice The Ministry of Interior The National Assembly Members	Failure to adopt a Bill to enact a domestic legislation to domesticate the Convention Against Torture
		Development of a long-term plan for building prisons in every region to decrease overcrowding		Law domesticating the Convention Against Torture Enacted Compliance with domestic, regional and international legislation protecting the right to be free from torture, inhuman or degrading treatment by the state New Prison Facilities established in every region		
		Upgrade existing prison facilities to match the number of inmates, and increase resources of the Prison Services.		Mile II, Jeshwang and Janjanbureh prisons renovated to standards acceptable regionally and internationally		

5. Access to Justice, Fair Trial, and Equality before the Law

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
<b>Ensure the promotion of access to justice, Protection and promotion of the right to fair trial and equality before the</b>	Enhance the capacity of the judges, staff, state Counsels and Prosecutors, police personnel involved in investigation, and legal professionals	Initiate capacity building and strengthening training for people involved in the justice system such as trainings.	5 years	Reports of training programmes published Increase in the number of cases decided by various courts	The Ministry of Justice The Ministry of Interior The Judiciary The National Assembly The National Human Rights Commission CSOs	Inadequate resources to implement programmes and actions Lack of sufficient enthusiasm among skilled lawyers to provide free legal services Lack of public awareness Lack of political will and prioritisation by the government
	Prepare and issue Standard Operating Procedures and Rules of Procedures on observance of human rights by the law enforcing personnel and judicial officers	The Chief Justice to develop rules of Court for the enforcement of human rights. Adoption and implementation of sentencing guidelines to be developed Provide free legal assistance programmes to marginalised groups.		Rules of Procedure on human rights developed Sentencing guidelines developed and implemented Adoption of non-custodial sentences for minor crimes Increase in the number of Pro bono cases handled by NALA		
	Enhance access to justice for the poor, vulnerable and marginalised groups including women,					

	<p>particularly women in rural areas and persons with disabilities.</p>	<p>Provide free legal assistance to persons in detention or imprisonment from the time of imprisonment.</p> <p>Strengthen NALA in terms of human and financial resources</p>	<p>Increase in the number of cases litigated on behalf of marginalised groups</p> <p>Increase in the number of resources allocated to NALA to deal with such matter and increase in the number of lawyers appointed to work at NALA</p>	
<p>Ensure that police are trained on investigative techniques when dealing with crimes and human rights related issues</p>	<p>Development of investigation manuals incorporating various regional and international norms and standards.</p> <p>Orientation for new recruits and refresher trainings for existing police officers.</p>	<p>The monitoring and evaluation reports of the programme</p>	<p>Increase in the number of persons referred to ADRS to resolve disputes</p>	
<p>Strengthen ADRS to promote and facilitate alternative means of dispute resolution</p>	<p>Popularisation of ADRS amongst the populace by raising awareness on its existence and</p>			

		encourage the citizenry to refer to it for quicker resolution of disputes			
	To Ensure equality of all persons before the courts and tribunals	Withdraw the reservation made under article 14 of the ICCPR		Instrument of withdrawal deposited at the relevant agency	
	To enhance access to subregional, regional and international human rights mechanism	Ratify and make declarations to provisions allowing for individual complaints under international and regional human rights instruments.		Ratifications or declarations made under treaties allowing citizens to directly appear before international and regional mechanisms of human rights	

#### 6. The Right to Freedom of Speech, expression and Access to Information

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure promotion and protection of the right to freedom of speech and expression	Enactment, implementation and enforcement of laws on freedom of speech, expression and access to information in line with International and	Conduct consultations with media stakeholders to gather their views on amending provisions of the constitution that restrict the right to	5 years	Media stakeholder consultations conducted. Consultation reports prepared	The Ministry of Justice Ministry of Information and Communication Infrastructure National Assembly	Failure of the National Assembly to enact laws to promote freedom of speech and expression



	<p>regional human rights standards</p>	<p>freedom of speech, expression and access to information in line with international and regional human rights standards</p>		<p>Provisions of the constitution on freedom of speech, expression and access to information amended and ADDS gazetted</p>	<p>The Judiciary The National Human Rights Commission CSOs</p>	<p>Failure of National Assembly to repeal laws that restrict freedom of speech and expression  Inadequate resources to implement programmes and actions</p>
	<p>To review and reform existing laws to further promote the right to freedom of speech, expression and access to information</p>	<p>Work with the Ministry of Justice, Ministry of Information and Communication Infrastructure and the National assembly to repeal all laws that criminalise free speech  Work with the Ministry of Justice, Ministry of Information and Communication Infrastructure and the National assembly to adopt and implement national legislation</p>		<p>Laws criminalising free speech repealed  Information Commission created and strategy and action plan adopted</p>	<p>Information Commission (when established)</p>	



		Information Commission.			
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**7. The Right to Freedom of Conscience, Assembly and Association**

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure the protection and promotion of the right to freedom of Conscience, Assembly and association	Amendment of laws that restrict the right to freedom of assembly and association  Implementation and enforcement of policies and laws that nurture a culture of tolerance, diversity, national cohesion and integration	Review and amend the Public Order Act  Develop Standard Operating Procedures for the Police and other law enforcement when dealing with public assemblies, including de-	5 years	The Public Order Act Amended and fully implemented and enforced  Standard Operating Procedures developed and disseminated to all members of the Police Force and other law enforcement agents and made available to the public	The Ministry of Justice Ministry of Interior The Judiciary Ministry of Interior The National Human Rights Commission CSOs	Inadequate resources to implement programmes and actions  Failure of National Assembly to amend the Public Order Act  Lack of political tolerance among political parties.

		<p>escalation techniques of participation channels to facilitate communication between Government and peaceful protesters in the event of peaceful demonstrations.</p> <p>Establish mechanisms and procedures to ensure that the freedom of assembly is enjoyed in practice and is not subject to unduly bureaucratic regulations. Any restrictions imposed on freedom of assembly must be proportional.</p>		<p>Mechanisms and procedures established.</p> <p>Complaints against undue restrictions of the right to peaceful assembly decrease.</p> <p>Trainings conducted for populace and political parties and the reports published.</p> <p>Campaigns conducted around political tolerance.</p>		
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			Awareness raising, particularly political parties on freedom of assembly and political tolerance				

**8. The Right to Protection from Discrimination**

<b>Objectives</b>	<b>Programme</b>	<b>Priority Action</b>	<b>Time frame</b>	<b>Means of verification</b>	<b>Implementing Agencies</b>	<b>Risk Factors</b>
<b>Ensure promotion and protection of the right to freedom from discrimination</b>	Adoption and implementation of laws and policies that will eradicate all forms of discrimination and stereotypes and bring them in line with international and regional norms and standards	Formulate laws to protect women, persons with disabilities, older persons and all other marginalised and vulnerable groups from all forms of discrimination	3 years	New laws enacted; existing laws amended.	The Ministry of Justice The National Assembly The National Human Rights Commission CSOs	Exclusion of legitimate stakeholders during revision of the laws Failure of National Assembly Members to amend or enact laws Inadequate resources to implement programmes and actions

9. The Right to Political and Civic Participation

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure promotion and protection of Political rights and political participation	To ensure a democratic political system that is people centred, oriented to result and accountable	Conduct a study on the legislative framework regulating the conduct of elections, including respect for fundamental freedoms necessary for the conduct of genuine elections.	5 years	Study Report	The Ministry of Justice The National Human Rights Commission The Independent Electoral Commission CSOs	Lack of political will  Inadequate resources to implement programmes and actions
		Conducting civic education programmes to widen knowledge and participation among citizens				
		Strengthen the capacity of the National Human Rights Commission and civil society to monitor and report on the human rights situation in electoral		A government strategy for civil society participation in decision-making is adopted and implemented.		

		<p>contexts (pre, during and post elections)</p>		
		<p>Develop a government strategy for civil society participation in decision-making with clear objectives, activities, attribution of responsibilities and resources</p>		
		<p>Ensure full and equal participation of citizens in the conduct of public affairs</p>	<p>Participation of the people on government development programmes Improved</p>	
		<p>Enhance participation of the people in government development programmes</p>	<p>Improved participation, inclusion and representation of vulnerable and marginalised groups in public affairs and decision-making processes.</p>	
		<p>Promote the establishment of framework agreements between government bodies and civil society</p>		

		<p>organisations to institutionalise partnership and opportunities for exchange</p>				
	<p>Organise periodic press conferences and appearances on radio and TV shows to inform the public of government's work and showcase opportunities for civil society participation</p>	<p>Ensure inclusion and participation of vulnerable and marginalise groups in the development of laws and policies</p>				
	<p>Ensure participation of vulnerable groups in the decision-making processes</p>					



			Ensure equal representation of vulnerable and marginalised groups in public and private institutions					

#### 10. The Right to Education

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure promotion and protection of the right to education	Review and amend laws to bring them in line with regional international norms and standards	Conduct a study on existing laws in relation to international human rights norms and standards.  Amend existing Education Act and Education Regulation in conformity with international human	5 years	Study reports  New laws enacted and published in the gazette Existing laws amended  Task force formed and operationalised	The Ministry of Justice  Ministry of Interior  Ministry of Basic and Secondary Education  Ministry of Higher Education  The National Assembly	Inadequate budgetary allocation  Difficulty in changing prevailing social norms, customs and traditions

	<p>Formulate and implement policies to guarantee education of children by making primary and secondary education free and compulsory for children</p>	<p>rights norms and standards</p> <p>Form a Taskforce to formulate policies and transparent guidelines for implementing free as well as compulsory education</p>		<p>Policies and guidelines produced</p> <p>Gender disaggregated data on student enrolment at the secondary level education.</p> <p>Reports of the need's assessment for non-education programmes for out of school children and young adults</p> <p>Persons who perpetrate physical and or sexual violence against children or students in educational held by prosecution and punishment</p> <p>Laws reformed to promote girls' access to education.</p>	<p>National Human Rights Commission</p> <p>CSOs</p>	<p>Lack of identification and prioritisation of target groups</p>
<p>Promote inclusive and gender sensitive education and formulate laws and policies that promote equal access to education</p>	<p>Establish special awareness creation, scholarship programmes targeted for girls to increase their school enrolment</p> <p>Implement policies and laws impacting girls' access to education</p>	<p>Establish an effective legal system that sanctions or punishes physical abuse, mistreatment and sexual harassment in educational institutions</p>				
<p>Formulate and implement policies to elimination of physical abuse, mistreatment and sexual harassment in educational institutions</p>						

	<p>Formulate and implement policies to eliminate discrimination in access to education for persons with disabilities</p>	<p>Improve equitable access of persons with disabilities, orphans, and other most vulnerable children to high quality, inclusive, friendly, and gender-sensitive education at all levels</p>		<p>Number of girls attending school increased.</p> <p>School facilities modified to accommodate persons with disabilities.</p> <p>Training conducted for Teachers to provide quality education taking the needs of students with disabilities and the reports published.</p>		
<p>Develop non-formal education programmes</p>	<p>Conduct an impact and a need assessment studies</p> <p>Conduct non-formal education programmes for out of school children and young adults</p>	<p>Improve the quality of Teachers through training to promote their ability to adapt to changes in curriculum</p> <p>Create conducive working environment to improve retention of qualified,</p>				
<p>Improve quality of education</p>						

		competent, and motivated teachers			
		Employment of adequate number of qualified teachers in schools.			

### 11. The Right to Health

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
. Ensure promotion and protection of the right to health	Enact and or reinforce laws, as per international commitments, in order to protect and safeguard people' right to good health	Adoption and implementation of laws and policies that make the right to health justiciable	5 years	The 1997 constitution amended to make socioeconomic rights justiciable, particularly the right to health	The Ministry of Justice  The Ministry of Health  Ministry of Finance  The National Assembly  National Human Rights Commission	Inadequate resources to implement programmes and actions  Failure of National Assembly to enact and or amend laws that promote the right to health  Sustainability of interventions
	Make health services Accessible, quality and affordability	Improve accessibility to health services by geographical coverage through the construction of new hospitals and health centres and rehabilitation of existing facilities across the country				

		<p>Formulate and implement policies to eliminate discrimination in access to health of all vulnerable groups including children, women, older persons and persons with disabilities.</p> <p>Better equipped health service units with drugs and equipment including essential medicines</p> <p>Increase availability of health workers in all health facilities</p> <p>Capacity building of personnel of the Ministry to prepare for emergencies</p> <p>Increase the incentives of health care workers particularly those in rural communities to minimise huge staff</p>		<p>Number of health workers employed increased</p> <p>Number of trained community health workers increased</p> <p>Number of Ministry of Health Personnel trained; Training reports</p> <p>Allocation to health in the National budget increased to support providing better incentives for health personnel in rural communities.</p> <p>Emergency and adequate funds set aside to cater for the future needs of the Ministry during public health emergencies</p>		
<p>Strengthen the capacities of the Ministry of Health to deal with public health emergencies</p>						

		<p>turnovers and to promote retention of staff</p> <p>Budgetary allocations to financially prepare the Ministry of health for any public health emergencies</p>			
	<p>Raise awareness on the right to health and right to sexual and reproductive health of women</p>	<p>Conduct public awareness programmes in about the human right to health and right to sexual and reproductive health including HIV/AIDS and other STIs</p> <p>Enhance community awareness on maternal and infant health aimed at reducing maternal and infant mortality.</p> <p>Coordinate and collaborate with</p>	<p>Analysis of health reports on use of media</p> <p>Increase in the use of family planning methods</p> <p>Community awareness programs conducted</p> <p>Mortality rate reduced</p> <p>Number of community sensitisations conducted</p>		

				Availability of facilities, personnel and drugs for mental health	
	NGOs Identify CSOs working in local communities in the field of the right to health and mobilise them to promote such right				
	Sensitise and raise public awareness on mental health and build infrastructure for mental health services	Public sensitisation to remove stereotypes, biases and discrimination against person with mental health issues	Better equipped health service units with drugs and equipment including essential medicines for mental health		

**12. The Right to food, clean and safe water and adequate standard of living**

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure the promotion and protection of the	Ensure all people have access to safe food of	Take legislative, policy, administrative and		Assessment Report issued and publicised.	The Ministry of Justice	Inadequate resources to

<b>Right to food, clean and safe water</b>	adequate nutritional value	judicial measures including the setting of standards to implement the right to food	Water management mechanism strengthened  Funding allocated to rural water supply increased  Water facilities rehabilitated or constructed to meet demand	The Ministry of Fisheries and Water Resources  The Ministry of Agriculture  National Water and Electrical Company  The National Assembly  The National Human Rights Commission  CSOs	implement programmes and actions
	To develop a National Strategy to ensure food and nutrition security for all	Conduct an assessment of the major issues impacting food security			
	Increase access to clean and safe water and sanitation	Increase sustainable access to affordable and reliable sources of clean and safe water in rural and urban areas			
		Strengthen mechanism to manage and maintain water support at community levels both in urban and rural areas with adequate attention to water quality issues including water safety planning			



		Scale up rural water supply services through increasing the management and investment				
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13. the right to a clean and safe environment

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure promotion and protection of the right to a safe environment	Enact and or reinforce laws, in accordance with regional and international obligations, in order to protect and safeguard people' rights to clean environment and sustainable development Train and increase the awareness of the	Review and amend conservations and policies national laws to identify gaps in light with the provisions of human rights Conduct awareness programmes that	5 years	Laws protecting and promoting the right to clean environment and sustainable development enacted and gazetted Awareness on	The Ministry of Justice The National Assembly Ministry of Forestry, Environment, Climate Change and Natural Resources National Environment Agency	Failure of the National Assembly to amend or enact laws Tendency to exclude relevant stakeholders during revision or enactment of the laws

	<p>matters of environment</p>	<p>highlight the relationship between environment and sustainable development, environmental conservation, pollution and waste management</p> <p>Train judges and magistrates on environmental law</p>		<p>relationship between environment and sustainable development raised</p> <p>Local waste management and environmental preservation programmes implemented</p> <p>Training Reports of judges and magistrates</p> <p>Activity Reports of Capacity Building Implementation Strategy developed</p> <p>Wide use of renewable and alternative source of energy</p>	<p>Ministry of Higher Education, Research, Science and Technology</p>	<p>Lack of funding to implement the programmes and actions</p> <p>Lack of awareness on environmental hazards</p>
<p>Enhance waste management and environment preservation at the local level.</p>	<p>Provide capacity-building to Local Government Authorities to develop and implement waste management and environmental preservation programmes</p>					
<p>Effectively enforce existing environmental laws, regulations, and standards.</p>	<p>Implement pollution control, occupational health and safety standards, and environmental management</p>					

	Develop alternative energy sources.	Support research for the development of renewable and alternative sources of energy	Participatory climate change adaptation measures established and operationalised		
Improve effectiveness of environmental impact assessment process	Develop and implement procedures for environmental monitoring in forestry sector	Integrate conservation and biodiversity management in community forestry programme and promote the access of poor and marginalized people in forest resources.	Procedures for environmental monitoring developed and publicised  Conservation and biodiversity management integrated in community forestry programmes		
To promote community participation in sustainable conservation of national resources,	Institute participatory climate change adaptation measures		Number of communities engaged before the adaptation of any climate change measures		

	including participation of conservation authorities					
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#### 14. Land Administration and Management

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Improve the system of land administration and management	Revise and harmonise our laws relating to land	Consolidation of all laws relating to management and Administration of Land	5 years	Laws revised and Harmonised	The Ministry of Justice	Failure of National Assembly to amend, revise or revise the laws
	Establish a mechanism to settle disputes and other related matters arising from land transactions or appropriation	Constitute and operationalise the Land Reform Commission		Land Commission constituted and operational	The Ministry of Lands and Regional Government	Inadequate resources to implement programmes and actions
	Development of policies and laws on law use and management	Effective and speedy settlement of land disputes		Land disputes settled within a reasonable period	The National Assembly	The National Human Rights Commission
		Development of Policies and SOPs which Real estate companies must comply with in the sale of land or		Policies, SOPs developed and fully Implemented	CSOs	

			other connected matters				
			Accredit on competent and reliable companies to venture in Real Estate				

**15. The Rights of Women**

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure the promotion and protection of the rights of women	To eliminate all forms of discrimination against women and enhance gender equity in all spheres	<p>Revise laws and policies to fully conform with regional and international standards and best practices</p> <p>Carry out a gender review of the national legislation</p>	5 years	<p>Laws revised in accordance with international regional standards and best practices</p> <p>State compliance with laws that protect the rights of women particularly in the area of non-discrimination</p>	<p>The Ministry of Women's Affairs, Children and Social Welfare</p> <p>The Ministry of Justice</p> <p>The National Assembly</p>	<p>Failure of National Assembly to formulate laws</p> <p>Socio cultural barriers which are prejudicial to women's rights</p>

		<p>Develop the methodology and mechanism for discovering, identifying and eliminating discriminatory behaviour and attitudes towards women in the family setup and in the society</p>		<p>All textbooks used in educational settings are free from stereotypical and discriminatory contents</p> <p>Perpetrators of Gender Based Violence prosecuted and punished</p> <p>Compliance with laws</p>	<p>The National Human Rights Commission</p> <p>The Independent Electoral Commission</p> <p>CSOs</p>	
	<p>Audit all textbooks to remove all stereotypes and content that discriminate against women</p>	<p>Protect women from all forms of violence</p>				
	<p>Effective implementation of all laws that protect women from Gender Based Violence including sexual violence</p>					

		<p>Providing free legal and counselling service to women suffering from violence of any form</p>				
		<p>Conduct campaigns to promote change of attitude to abolish harmful traditional practices, such as female genital mutilations, forced marriage, child marriage and betrothal</p>				
		<p>Conduct capacity-building trainings for all law enforcement agents and members the judiciary equip them with knowledge and competence in the administration of</p>				

	<p>Formulate and implement policies to eliminate trafficking in women</p>	<p>justice for violence related cases,</p>	<p>Build the capacities of health service providers and community development officers in order to ensure that they are sensitised about all forms of violence against women and they are quipped to rehabilitate and provide the necessary psychosocial support for victims and survivors of violence</p> <p>Strengthen the National Agency</p>				
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		<p>Against Trafficking in Persons</p> <p>Building capacities of immigrants officers and border control for early detection of trafficking of women</p>				
	<p>Increase women's representation and participation in decision-making processes</p>	<p>Introduced compulsory quota system in political parties, public and private sectors so as to increase leadership positions for women</p> <p>Gender mainstreaming in all areas of development</p> <p>Popularise the National Action Plan on UNSC</p>				



Ensure promotion and protection of the rights of children	enforcement of existing laws in order to protect and safeguard child rights.	Act and the Children's Amendment Act on the rights of the child among the judges, magistrates and law enforcement agencies.		Training conducted for Judicial and Law Enforcement personnel  Number of reported cases of child labour reduced  Actions taken against persons engaging in child rights violations  Number of reported child rights cases positively dealt with by the courts  Regulations developed or revised to include children's representation in school management and other decision-making processes.	The National Assembly  The National Human Rights Commission  The Ministry of Women's Affairs, Children and Social Welfare  CSOs	Inadequate resources to implement programmes and actions  Lack of political will  Socio cultural barriers
Strengthen the enforcement of legislation and policies that enhance the realisation of children rights	Effective implementation and enforce of laws protecting children from child labour, neglect, abuse, trafficking, pornography, prostitution and harmful traditional practices such as FGM and child marriage					
Facilitate participation of children in all matters affecting them	Consultation and active participation of children on school board, community boards, committees and other relevant committees' taskforces where					

		children matters are discussed.				
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### 17. The Rights of Persons with Disabilities

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure promotion and protection of the rights of persons with disabilities	Enact a law and raise public awareness on the rights of Persons with Disabilities.	Enactment of a law domesticating the Convention on the Rights of Persons with Disabilities	5 years	Training programmes conducted. Education materials produced. Increased awareness on the rights of Persons with Disabilities Situational analysis report produced and the report findings published and disseminated Database on the state	The Ministry of Justice The National Assembly The Ministry of Trade, Investment, Regional Integration and Employment The Ministry of Women Affairs, Children and Social Welfare	Inadequate resources to implement programmes and actions Failure of the National Assembly to domesticate international and regional treaties ratified by the Gambia on the protection and promotion of the
	Promote dignity and respect for Persons with Disabilities	Conduct public awareness programmes on disability rights. Implement the rights of Persons with Disabilities through legislation, administrative, judicial and other				

	<p>To conduct situation analysis on Persons with Disabilities</p>	<p>measures including affirmative actions</p> <p>Conduct research on disability and rehabilitation services</p> <p>Improve a database on the state of disability with a view of addressing various demands to Persons with Disabilities</p> <p>Raise awareness about the magnitude and consequence of disability to decision makers so as to include issues of Persons with Disabilities in the development Plan</p> <p>Amend the existing construction laws and policies to mainstream disabilities issues</p>		<p>of Persons with Disabilities improved.</p> <p>Issues of persons with disabilities mainstreamed in most development plan</p> <p>Public buildings modified to be more accessible to Persons with Disabilities</p> <p>Increase in availability of support services and assistive devices</p> <p>Increase in the number of Persons with Disabilities employed in the Public and Private Sectors</p> <p>Complaints of discrimination filed, investigated, and resolved</p> <p>Accommodations made to voting facilities to ensure access of Persons with Disabilities</p>	<p>The National Human Rights Commission</p> <p>Gambia Bureau of Statistics</p> <p>CSOs</p>	<p>rights of persons with disabilities</p> <p>Lack of prioritisation and political will</p>
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	<p>Persons with Disabilities</p>	<p>Conduct environmental impact assessment and disability impact assessments as a checklist for all development plans</p> <p>Design and modify public buildings to promote accessibility by Persons with Disabilities</p> <p>Ensure that there is a dedicated person in every public and private office and department to serve as point of contact for persons with disabilities so as to prioritise their issues and needs</p> <p>Improve supply of support services and assistive</p>				
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		<p>devices to Persons with Disabilities to increase their level of independence</p>			
<p>Provide equal opportunities in employment for Persons with Disabilities</p>	<p>Strictly enforce laws against employers found to be discriminating against Persons with Disabilities</p>				
<p>Ensure the participation of Persons with Disabilities in political and public life</p>	<p>Promote access of Persons with Disabilities to voting processes through modifications to increase accessibility while maintaining the right to vote freely and in secret</p>	<p>consult Persons with Disabilities on all matters or affecting concerning them</p>			

			Ensure participation and representation of Persons with Disabilities in decision making processes				

### 18. The Rights of Older Persons

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure promotion and protection of the rights of older persons	Develop Legislative and policy frameworks to ensure the protection and promotion of the rights of older persons	Ratify the AU treaty on the right's of older persons  Domestication of for all regional and international instruments on the rights of older persons by enacting laws and implementing such laws	5 years	Policies evaluated, and issues related to older persons mainstreamed  Increase in care and support given to older persons  Increase in campaigns to raise awareness of	The Ministry of Justice  The Ministry of Women's Affairs, Children and Social Welfare  The Ministry of Finance  The National Assembly	Inadequate resources to implement programmes and actions  Non-Ratification and domestication of international and regional treaties by the National Assembly



	<p>Increase visibility and raise awareness about the rights of elderly persons</p>	<p>Mainstream and integrate issues relating to the older persons into existing policies and plans, provide safety nets for them which includes health services, home-based care, shelter, nutrition and protection from gender-based violence</p>		<p>the rights of older persons</p> <p>Older persons incorporated into Planning and Development committees.</p> <p>Committees and networks of older persons established with older persons leading advocacy on their issues</p>	<p>The National Human Rights Commission</p> <p>National Disaster Management Agency</p> <p>CSOs</p>	
<p>To ensure participation of older people</p>		<p>include older persons in planning and development committees to ensure their needs and priorities are integrated</p> <p>Establish networks and Committees for older persons to facilitate their advocacy and communications with authorities to increase access to</p>				

	existing services and rights					
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### 19. The Rights of Youth

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
<b>Ensure promotion and protection of the rights of the youth</b>	Develop Legislative and policy frameworks to ensure the protection and promotion of the rights of the youth	Enactment of Policies and Laws that advance the rights of youth	5 years	Laws and policies adopted Percentage of youth with relevant skills and in employment Rate of employment among the youth	The Ministry of Justice Ministry of Youth and Sport The Ministry of Trade, Investment, Regional and Integration and Employment The Ministry of Higher Education The National Assembly National Youth Council The National Human Rights Commission	Develop Legislative and policy frameworks to ensure the protection and promotion of the rights Failure of the National Assembly Lack of political will
	Ensure an increase access of youth to education, and training; opportunities to associate, be represented and participate in political, social, economic and other spheres of life; access employment; and are protected from harmful cultural practices and exploitation	Provide Employment opportunities and vocational trainings for Youth Consult youth on all matters concerning them Ensure that youth participate in decision making and are represented in				

			public offices and platforms				National Youth Service Corps CSOs	
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### 20. Labour and Employment

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure the Protection and promotion of the right to employment/labour	Enact and or reinforce laws in accordance with regional and international obligations	Review and amendments of all labour or employment related laws and by laws.	5 years	Amendment of existing laws and enactment of new laws  Public awareness campaign conducted.  Employment and Labour cases resolved within a reasonable time	The Ministry of Justice  Ministry of Youth and Sport  The Ministry of Trade, Investment, Regional and Integration  Employment Department of Labour  The National Assembly  The National Human Rights Commission	Failure of the National Assembly to enact or amend laws  Budgetary constraints  Discontinuity of programmes due to funding constraints  Lack of coordination between the different agencies
	strengthen mechanisms to increase employment creation, enhance protection of workers and employees and ensure an adequate working	Strengthening the mechanism for handling complaints at the Industrial Tribunal  Undertake a regular study of the public and private sector and informal workforce to evaluate human resource capacity,				

	<p>work environment, and quality of performance</p> <p>Raise awareness in the public, particularly to civil servants and private spheres regarding labour rights and duties</p> <p>Ensure quick and effective labour justice administration system</p>			<p>The Judiciary (The Industrial Tribunal)</p> <p>CSOs</p>	
<p>Incorporate self-employment skills into educational curricula.</p>		<p>Conduct entrepreneurship and life skills training for youth, women, and other vulnerable and marginalised groups, particularly those in rural communities</p>			

21. Migrants, Refugees and Asylum Seekers

Objectives	Programme	Priority Action	Time frame	Means of verification	Implementing Agencies	Risk Factors
Ensure the protection of the rights of all Migrants, Refugees and Asylum seekers	Comply with international and regional human rights and refugee laws for the protection of the rights of Migrants, Refugees and Asylum Seekers	Develop and implement a legal framework to promote, protect and safeguard migrants, refugees and asylum seekers' rights in line with the existing national, regional and international legal frameworks with regard to the protection of migrants, refugees and asylum seekers	3 years	Laws enacted and implemented Capacities of immigration officers on human rights built: Training reports	The Ministry of Justice The Ministry of Interior The National Assembly The National Human Rights Commission	Failure of the National Assembly to enact or amend laws Budgetary constraints Lack of political will
	Ensure proper assessment of protection needs under international and regional human rights and refugee laws, including the right to seek and enjoy asylum	Build capacity of Immigration Officers and Border Management Authorities on human rights at international borders				





