



National Human Rights Commission

STATE OF HUMAN RIGHTS REPORT

2023



National Human Right Commission

State of Human Rights Report

2023

March 2024

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ACRWC	African Charter on the Rights and Welfare of the Child
AU	African Union
CAT	Convention Against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CED	Convention on Enforced Disappearance
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organization
DLEAG	Drug Law Enforcement Agency-Gambia
FAO	Food and Agriculture Organisation
FGM	Female Genital Mutilation
GANHRI	Global Alliance of National Human Rights Institutions
GID	Gambia Immigration Department
GPF	Gambia Police Force
GPS	Gambia Prisons Services
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights

ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Family
IEC	Independent Electoral Commission
IDEA	International Institute for Democracy and Electoral Assistance
NA	National Assembly
NAATIP	National Agency Against Trafficking in Persons
NALA	National Agency for Legal Aid
NANHRI	Network of African National Human Rights Institutions
NEA	National Environment Agency
NHRC	National Human Rights Commission
OHCHR	Office of the High Commissioner for Human Rights
OPDs	Organization of Persons with Disabilities
PWDs	Persons with Disabilities
TANGO	The Association of Non-Governmental Organisations
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
WB	World Bank

2 Acknowledgements

The National Human Rights Commission (NHRC) extends its deepest appreciation and heartfelt gratitude to its partners for the invaluable support provided to the Commission in fulfillment of its mandate.

In pursuance of its mandate to promote and protect the human rights of all the people in The Gambia, the Commission recognizes the importance of collaboration and cooperation with organizations and institutions that share similar principles and values which underpin its work. As such, the unwavering support received has played a crucial role in enhancing the Commission's capacity to address human rights challenges, advocate for justice, and champion the rights and dignity of all during the reporting period.

In 2023 the Commission immensely benefited from the financial, technical, material and professional support of great development partners such as the European Union through International IDEA, UNFPA, UNDP, UN Peace Building Support Office, OHCHR, NANHRI, British High Commission, UNESCO, FAO, ABA, Swiss Embassy Dakar, French Embassy Dakar, and the American Embassy. The support of these partners not only strengthened the NHRC's institutional capabilities and capacities but also contributed to advancing its initiatives in the promotion and protection of human rights in The Gambia

The accomplishments of the NHRC during the reporting year would also not have been possible without the support of

partners such as Civil Society Organizations (CSOs) and Government Ministries and Institutions, particularly the Ministries of Justice and Finance.

Support from the following Institutions and Organizations are also acknowledged and appreciated:

- National Assembly Standing Committee on Human Rights and Constitutional Matters
- Global Alliance of National Human Rights Institutions (GANHRI)
- The Faculty of Law, University of The Gambia
- Institute for Human Rights and Development in Africa (IHRDA)
- Gambia Police Force (GPF)

While the above list is not exhaustive, the Commission looks forward to continued collaboration with all partners in the coming years, as it works towards the advancement of the human rights agenda in the country.

3 Foreword

The National Human Rights Commission (NHRC) continues to exercise its mandate to promote and protect human rights in The Gambia in accordance with the National Human Rights Commission Act, 2017. The operation of the NHRC is guided by the Paris Principles relating to the Status of National Human Rights Institutions. Currently, it enjoys an 'A' Status accreditation with the Global Alliance of National Human Rights Institutions and Observer Status with both the African Commission on Human and Peoples' Rights (ACHPR) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC).

The year 2023 saw the consolidation and capacity expansion of both the NHRC Secretariat and its two regional offices in Basse and Farafenni. The regional offices have expanded the reach of the NHRC and are giving access to more people nationwide, to seek remedy for alleged human rights violations. In fulfillment of its mandate, the NHRC received and dealt with various human rights complaints, published advisory notes, held thematic engagements with stakeholders, conducted mobile legal aid clinics and built on its awareness raising campaigns and public education.

The reporting year coincided with the commemoration of the 75th Anniversary of the Universal Declaration of Human Rights (UDHR). The NHRC joined partners and human rights institutions and organisations to commemorate this important universal milestone by organising several human rights fora

and delegated representatives to various activities earmarked for the celebrations. It also successfully held the fourth annual Sir Dawda Kairaba Jawara International Moot Court Competition. This year's competition centered on the justiciability of socio-economic rights. Participants who made it to the semifinal and final were sponsored to physically take part in the competition in Banjul.

This Report is prepared in accordance with section 33(2) (a) and (b) of the NHRC Act 2017 as amended which requires the NHRC to submit to the National Assembly an annual report detailing the state of human rights in The Gambia and what appropriate measures should be implemented by the State to ensure the effective promotion, protection, and realisation of human rights. It discusses the State's compliance with its human rights obligations with respect to treaties it has ratified, the 1997 Constitution and other domestic legislation, and the steps taken to protect and fulfil fundamental human rights and freedoms in The Gambia. The Report also gives a breakdown of the human rights complaints the Commission has received and actions that have been taken to remedy the violations in complaints that were admissible.

The NHRC continues to operate an open-door policy and remains committed to working with the Government of The Gambia and all stakeholders to ensure respect for human rights and freedoms is embedded in all the actions and policies of the Government, including compatibility of all laws with regional and international human rights standards and principles. It also stands ready to ensure duty bearers and perpetrators of human rights violations are held accountable.

4 Executive Summary

The NHRC presents its yearly State of Human Rights Report in line with the NHRC Act 2017. The Report provides a summary of the state of human rights in The Gambia during 2023, challenges to the enjoyment of human rights, steps taken by the State to address these challenges and recommendations to the Government for enhanced protection and guarantee of rights and freedoms for all.

The Report covers wide ranging thematic human rights issues that occurred in 2023. These include the fatal shooting of two police officers at the Sukuta-Jabang Traffic Lights in September 2023 and the gruesome murder of a 17-year-old girl in Barra and their impact on the right to life and integrity of the person. For the first time, the Report also provides a synopsis of corruption and its impact on human rights and fundamental freedoms in The Gambia.

The Report highlights the re-occurrence of acts of torture and related inhuman treatment meted on people by State agents and private individuals. The arrests of social media influencers and human rights activists are highlighted as well as the case of a Nema-Su resident that tied up and maltreated his niece. The Report further examined the continued abuse by State agents of their powers of arrest and detention of suspects beyond the Constitutional limit of 72 hours.

In the area of access to justice, the Report recognizes the efforts of the Judiciary in developing a five-year Strategic Plan

to guide its work and the dispensation of justice in the country. It, however, highlighted some of the challenges that continue to hinder access to justice, especially by women, the poor, people in rural communities and other marginalised groups.

Concern is also raised about political statements and speeches that have the potential to undermine freedom of the media and expression in the country and ignite political violence. The arrest and detention of media practitioners and human rights activists are also addressed.

The Report examines the level of women's political participation in the 2023 Local Government elections, highlights the low level of representation of women in the Councils and recommended for law reform to enhance women participation in the governance structure.

With regards to the Government White Paper on the Report of the TRRC, the Report notes the progress made in the implementation of the recommendations, including the enactment of The Victims Reparations Act 2023, the Mutual Legal Assistance Act 2023, Prevention and Prohibition of Torture Act 2023 and the Ban from Public Office Act 2023. All these laws are in relation to the implementation of TRRC recommendations.

The Report also covers the developments in the health sector since the Acute Kidney Infection (AKI) incidents and urges the State to implement the recommendations of the Presidential Task Force on the subject. Mental health and the dire status of mental health patients in The Gambia are also discussed and

the State is urged to implement the decision of the ACHPR in the case of *Purohit and Moore v The Gambia*.¹

The Report highlights that, despite the enactment of the Persons with Disabilities Act 2021, persons with disabilities continue to face challenges in the enjoyment and protection of their rights, including stigmatisation, discrimination, exclusion in governance and restricted access to social services and employment.

The high cost of living, inflation, and environmental degradation are flagged as challenges to enjoyment of Economic Social and Cultural Rights (ESCR) in The Gambia. The State and businesses are also called upon to respect and utilise the UN Guiding Principles on Business and Human Rights, tackle illegal and over-fishing in The Gambian waters, and regulate the fisheries sector.

The Report also provides updates on the complaints received through the Commission's Complaints Handling Procedures. In 2023 Seventy-One (71) human rights violation complaints were received. Forty-Five (45) cases were investigated, and appropriate remedial actions recommended, whilst Twenty-Six (26) cases are currently at various stages of the complaint handling process.

¹ Communication No. 241/2001 (2003).

5 Country Report of the Republic of The Gambia

Population	2,8 million ²
Population Density	280.81/km ² (49th)
Population Growth	2.52% (26th)
Fertility Rate	4.904 births per woman
Life Expectancy	63.26 ³
Socio-Economic Indices	
GDP	\$2.08 Billion ⁴
Inflation	17.3 % ⁵
Primary School Education	94.7%
Secondary School Education	46.2%
Tertiary Education	46.3%
Literacy Level	50.8% ⁶
Health Facilities	190 ⁷

² Gambia Population 2024 (Live) (worldpopulationreview.com).

³ Gambia Life Expectancy 1950-2022 | MacroTrends.

⁴ <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=GM>.

⁵ <https://www.worldbank.org/en/country/gambia/overview#3>.

⁶ <https://www.cia.gov/the-world-factbook/countries/gambia-the/>.

⁷ https://www.moh.gov.gm/wp-content/uploads/2022/08/Final-Service-Statistic-Report-2021-1-compressed_compressed-1-compressed-1-1.pdf.

6

Key Human Rights Instruments Not Ratified by the State

The Gambia has taken noteworthy strides to ratify international and regional human rights instruments as evidenced in the exhaustive list of ratified instruments outlined in the National Human Rights Commission 2021 State of Human Rights Report⁸. However, since the last reporting year, there continues to remain several important human rights instruments that The Gambia is yet to ratify. They are indicated below:

s/n	Instrument	Organisation	Description
1.	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	United Nations	It supplements the 1984 CAT and establishes an inspection system for places of detention

⁸ National Human Rights Commission 2021 State of Human Rights Report, Ratified Human Rights Instruments, p12.

s/n	Instrument	Organisation	Description
2.	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	United Nations	It establishes complaint and inquiry mechanisms for the CEDAW.
3.	Optional Protocol to the CRC on a Communications Procedure	United Nations	Recognizes that children have the right to appeal to an international mechanism specific to them when national mechanisms fail to address violations effectively.
4.	Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	United Nations	It enables victims of economic, social and cultural rights to present complaints to the UN Committee on Economic Social and Cultural Rights.

s/n	Instrument	Organisation	Description
5.	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa	African Union	The Protocol aims to strengthen regional protection for the rights of older persons, enhancing the rights of older persons on an equal basis with other population groups.
6.	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa	African Union	The Protocol seeks to ensure the full and equal enjoyment of all human and people's rights by all persons with disabilities

7

Respect for Integrity of the Person Including Deprivation of Life

The 1997 Constitution of The Gambia provides for the protection of the right to life. Respect for the integrity of the person requires States to protect the right to life and respect the prohibition of torture and ill-treatment. States must also protect the right to life by punishing the perpetrators of arbitrary killings. When an arbitrary killing has been committed within the jurisdiction of a state, the State has the duty to prosecute perpetrators and bring those responsible to justice.

On 15 May 2023, the dead body of a young 17-year-old girl was found in an incomplete house in Barra.⁹ Police investigations so far, found out that the half-naked condition of the dead body suggested the deceased may have been sexually assaulted and killed.¹⁰ At the time of reporting, investigations were still ongoing.

On 3rd August 2023, a tailor was stabbed in Latrikunda Sabiji.¹¹ It was alleged that the victim was stabbed during a heated altercation with a suspect and was pronounced dead on arrival

⁹ Facebook (*whatsonGambia*), May 18th 2023
https://m.facebook.com/story.php?story_fbid=pfbid0stfZZmhX43q4xneAi4kBzGrUS3Uf2G3UV9YFbE1kM8AiTUeb2WuvKSmtoin2JBaxl&id=100064870233186&sfnsn=wa&mibextid=6aamW6.

¹⁰ As above.

¹¹ PM Cham 'Tailor allegedly stabbed to death' *The Point*
<https://thepoint.gm/africa/gambia/headlines/tailor-allegedly-stabbed-to-death>.

at the Ndemban Clinic. At the time of preparing this report, information reaching the NHRC was that the suspect was still at large.

In September, two police officers were fatally shot, and another critically injured while on duty at the Sukuta-Jabang Traffic Light, a busy intersection.¹² The suspect, identified as one Ousainou Bojang, was consequently apprehended and is currently being prosecuted for charges which include murder, attempted murder, and grievous bodily harm. His sister is also being tried for being an accessory after the fact to murder. In a statement released by the NHRC condemning the attack, the Commission reiterated that security officials, like civilians, have fundamental rights, including the right to life, personal security, and protection against violence which should be upheld by all as guaranteed by the Constitution.¹³

On 4th October 2023, one Kebba Ndoeye was stabbed and killed in Banjul.¹⁴ Even though according to witnesses the deceased mentioned the name of the suspect before his death, information reaching the NHRC is that the suspect remains at large.

Several reports reaching NHRC of other alleged murder cases committed in the reporting year remain unsolved and perpetrators are still at large.¹⁵

¹² <https://apanews.net/gambia-manhunt-as-two-police-personnel-shot/>

¹³ <https://gainako.com/nhrc-condemns-shooting-of-police-officers-at-sukuta-traffic-lights-junction/>

¹⁴ T Bojang 'Man stabbed to death in Banjul' *The Standard Newspaper* <https://standard.gm/man-stabbed-to-death-in-banjul/>.

¹⁵ These include the stabbing incident in Bakau resulting to the death of one Cherno Manneh, and the killing of one Ousman Touray in Latrikunda.

The ECOWAS Court of Justice in June 2023, found that The Republic of The Gambia violated the right to life of Saul Ndow, a businessman who was abducted in 2013. The Court also found that The Gambia failed to investigate and prosecute those responsible in a timely manner.¹⁶ Consequently, the State is reminded of its responsibility to hold perpetrators to account.

The right to life is a right that should not be interpreted narrowly. It concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death.¹⁷ An important element of the protection afforded to the right to life by the ICCPR is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents.¹⁸

Recommendations to the State

1. Thoroughly investigate all alleged murders and bring perpetrators to account.
2. Provide the Gambia Police Force with the necessary resources, equipment and capacity to effectively investigate and handle murder cases and other arbitrary deprivation of life.

¹⁶ <https://www.ihrda.org/wp-content/uploads/2023/07/Communique-ECOWAS-Court-judgment-on-Nana-Jo-N-v.-Gambia-case-July-2023.pdf> (accessed 18 January 2024).

¹⁷ OHCHR General Comment No. 36 and Article 6 ICCPR: Right to life [3].

¹⁸ As above [21].

The Gambia assented to the United Nations Convention Against Corruption on the 8th July 2015¹⁹ and ratified the AU Convention on Preventing and Combating Corruption on 30th April 2009.²⁰ These instruments, while putting corruption on the international agenda, have placed obligations on States Parties to put in place systems, processes and laws to vigorously fight corruption. The UN Guiding Principles on Business and Human Rights also obliges States to ensure businesses comply with human rights standards and laws, including respect for and protection of human rights.²¹

The Transparency International 2022 Corruption Perception Index ranked The Gambia 110th position out of 180 countries which suggested a high prevalence of corruption in the country. The 2023 edition ranked The Gambia 98th out of 180 countries. In an assessment conducted in The Gambia on Governance and Corruption Vulnerabilities, the International Monetary Fund highlighted corruption as one of the vulnerabilities of The Gambian Government.²² Notwithstanding, the State has made notable efforts during the reporting year to address corruption and promote justice and accountability within the public sector.

¹⁹ <https://www.unodc.org/unodc/en/corruption/ratification-status.html>

²⁰ <https://au.int/en/treaties/african-union-convention-preventing-and-combating-corruption>

²¹ UN Guiding Principles on Business and Human Rights

²² 1 IMF flags corruption among Gambia Govt's Vulnerabilities: IMF flags corruption among Gambia govt's vulnerabilities (gambiana.com) accessed 9 February 2023.

The Ministry of Justice in October 2023 filed indictments against Senior Government officials and an officer of a Civil Society Organisation in connection with the mismanagement of the 2018 Global Funds grant provided to the Ministry of Health.²³ The charges include official corruption, economic crimes, theft, forgery, and conspiracy connected to the use of the Global health funds grants allocated to the Ministry of Health.²⁴

Additionally, following court proceedings that commenced in 2021, the Government in March 2023 secured a conviction against a former Permanent Secretary at the Ministry of Fisheries and Water Resources in connection with receiving bribes to facilitate the release of fishing vessels that had been arrested by the Gambia Navy for violating fisheries laws and regulations.²⁵

Furthermore, despite suffering a setback at the consideration stage at the National Assembly in September the Anti-Corruption Bill 2023 was passed by the National Assembly in December.²⁶ This significant legal framework is expected to prevent, detect, and punish corrupt practices in the country.

²³ Press Statement: Indictments Filed Against Senior Government Officials In Connection With 2018 Global Funds Grant To The Ministry Of Health <https://www.moj.gm/news/f2fe6f52-6825-11ee-8b02-025103a708b7> .

²⁴ As Above.

²⁵ Press Release: Former Ministry Of Fisheries Permanent Secretary Found Guilty Of Corruption <https://www.moj.gm/news/f79c4fc3-be57-11ed-8b02-025103a708b7>.

²⁶ <https://www.kerrfatou.com/anti-corruption-bill-unanimously-approved-by-gambian-lawmakers/>.

The Committee on Economic, Social and Cultural Rights (CESCR) has observed that “Corruption constitutes one of the major obstacles to the effective promotion and protection of human rights, particularly as regards the activities of businesses”. It further states that corruption undermines “a state’s ability to mobilize resources for the delivery of services essential for the realization of economic, social, and cultural rights (leading) to discriminatory access to public services in favour of those able to influence authorities, including by offering bribes or resorting to political pressure.”²⁷ In addition to the ECSR acknowledgement of Corruption negatively affecting the enjoyment of rights and can lead to or constitute a violation of human rights, the Human Rights Council, has also indicated that ‘it is difficult to find a human right that could not be violated by corruption’²⁸ as it erodes the fundamental values of human dignity, equality and freedom for all especially disadvantaged groups and persons.²⁹

²⁷ Committee on Economic, Social and Cultural Rights General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1a0Szab0oXTdImnsJZZVQcIMOUuG4TpS9jwIhCJcXiuZ1yrkMD%2FSj8YF%2BSXo4mYx7Y%2F3L3zvM2zSUbw6ujInCawQrJx3hIk8Odka6DUwG3Y>.

²⁸ Corruption and Human Rights Divya Prasad and Lázaree Eeckeloo: How to better integrate corruption issues in the UN human rights mechanisms CCP Centre for Civil and Political Rights R A practitioners’ guide and strategic advocacy tool for civil society organisations.

²⁹ As Above.

Recommendations to the State

1. Take all necessary steps to enforce and implement the Anti-Corruption Act 2023, including the expeditious establishment of the Anti-Corruption Commission.
2. Take necessary steps to raise awareness on corruption and the existence of the Act to prevent and punish practices.
3. Implement the recommendations of the audit reports of the National Audit Office regarding mismanagement and misappropriation of public funds.

9 Protection Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment

The National Assembly, in March 2023, enacted the prohibition of Torture Act. This Act provides the legal framework for the prohibition, prevention, and punishment of any form of torture and other forms of cruel, inhuman, or degrading treatment in The Gambia and the penalties aimed at ensuring accountability for acts of torture.³⁰ This is commendable progress in combatting torture as a human rights violation. However, the State is reminded of the need to put in place the implementation infrastructure for this Act and enforce its provisions, and to also ratify OPCAT.

³⁰ Foroyaa newspaper, 14th March, 2023: <https://foroyaa.net/lawmakers-adopt-report-on-prevention-prohibition-of-torture-bill/>.

During the reporting year, the NHRC received five (5) complaints of alleged torture, inhumane and degrading treatment, or punishment. One of the alleged complaint was reported against a police officer in the Upper River Region, two were reported against Drug Law Enforcement Agency Officers in CRR and WCR, one against Immigration Officers in Brikama and one against a local psychiatric treatment centre in West Coast Region.

In addition to the above reported cases of alleged torture, inhumane, and degrading treatment, a story monitored on social media in April 2023 reported the case of a man in Nema-Su who reportedly tied a young girl, said to be his niece, to a tree and subjected her to serious beating. A neighbour reported that the girl was beaten and tied to a tree for over six hours by her uncle. This prompted many Gambians to call for the alleged perpetrator to be brought to book.³¹ Officers of the Commission visited the Police Station where the accused was detained to get firsthand information about the case. It was confirmed that charges were preferred against the accused for prosecution.

On July 20, 2023, Justice Tabally of the Brikama High Court delivered a landmark judgement against police officers who were found guilty of torture against a civilian. The Applicant filed a lawsuit against police officers at Farato Police Station, accusing them of torture and violating his rights.³² The Court

³¹ The standard newspaper, 4th April 2023 <https://standard.gm/police-investigate-case-of-child-tied-to-a-tree-in-nema-su>.

³² <https://www.voicegambia.com/2023/08/04/igp-ordered-to-pay-a-compensation-of-d425000-to-victim-tortured-by-police-officers/?amp=1>.

granted the complainant a total of D425,000 (four hundred and twenty-five thousand dalasis) as compensation and legal and administrative costs.

In September 2023, Bakary Mankajang, a social media influencer, was called for questioning by the Police and detained incommunicado for three days before being charged with interfering with prosecution witnesses identified for the Ousainou Bojang murder trial. Mr. Mankajang alleged that he was deprived of food, water and access to legal representatives during his detention at the Police Anti-Crime Unit. He further told The Standard Newspaper that his family did not know his whereabouts.³³

The earlier mentioned complaints lodged at the NHRC and the case of Mankajang all point toward instances of torture.

Recommendations to the State

1. Put in place the implementation infrastructure for the Prevention and Prohibition of Torture Act 2023 and enforce its provisions.
2. Investigate, suspend, and prosecute the state agents responsible for the maltreatment of Bakary Mankajang.
3. Prosecute private individuals accused of engaging in acts of torture.
4. Ratify OPCAT and set up the National Preventive Mechanism

³³ The Standard Newspaper, Available at <https://standard.gm/mankajang-says-he-was-detained-incommunicado-not-given-food/> (Accessed 25 September, 2023).

5. The Ministry of interior, in collaboration with Ministry of Justice, to develop training manuals on the Prevention and Prohibition of Torture Act for law enforcement officials.
6. Train law enforcers on the Prevention and Prohibition of Torture Act 2023.
7. The Ministry of Health to develop regulations and guidelines for the operation of traditional psychiatric centers in The Gambia.

10 Right to Liberty

In October 2023 Alagie Bora Sissawo, a Talk Show co-host on Kerr Fatou, was arrested and held by the Gambia Police Force beyond the 72-hour constitutional legal limit following the revocation of his bail³⁴. The Police detained Mr. Sissawo incommunicado over comments he made on social media in reaction to remarks by President Adama Barrow. Mr. Sissawo also alleged that he was tortured by the Police while in custody. Even though the power of arrest is within the jurisdiction of the Police, arrest and detention need to be done or exercised in line with the provisions of the 1997 Constitution and other international human rights instruments that The Gambia is party to.

³⁴ The Alkamba Times, Available at <https://alkambatimes.com/gambia-alert-talk-show-host-detained-beyond-legal-limit-of-72-hours/> (Accessed 16 October, 2023).

Following his release, Mr. Sissawo brought an action in the High Court against the Inspector General of Police (IGP) and the Attorney General claiming, amongst other things, that his detention between 4th October to 10th October was unlawful and a violation of his fundamental rights and freedoms guaranteed by the 1997 Constitution of the Republic of The Gambia. The High Court in its judgment held that Mr. Boras's detention was arbitrary, unconstitutional and a violation of his right to personal liberty.³⁵ Mr, Bora was awarded GMD500,000 (five hundred thousand dalasis) compensation and the IGP was ordered to desist from arbitrary arrests of citizens.³⁶

Recommendations to The Gambia Police Force

1. Follow due process in the arrest and detention of individuals suspected of a crime.
2. Refrain from committing acts of torture, inhumane and degrading treatment against individuals in police custody.
3. Train officers on arrest and detention procedures and the Prevention and Prohibition of Torture Act 2023.
4. Respect, honour and enforce decisions, judgements and rulings of the Courts.

³⁵ <https://thepoint.gm/africa/gambia/headlines/court-orders-igp-to-pay-d500000-to-bora-for-human-rights-violation>.

³⁶ As Above.

11 Access to Justice

In June 2023, the National Human Rights Commission convened its Second Stakeholder Conference on Access to Justice on the theme 'Guaranteeing Equal Access to Justice for All and Ensuring Accountability'. Stakeholders reported on several progressive steps taken by the State to ensure access to justice and the significant gaps in enhancing access to justice in The Gambia. They identified some of the following challenges that affect the justice delivery system: lack of universal representation of all parties in the courts regardless of the nature of the offence committed (legal aid is mostly for capital offences and offences carrying life imprisonment sentences); absence of a defined standard minimum wage to determine qualification for legal aid support; inadequate courtrooms for Magistrates and Judges; congested prisons; backlog of cases in the courts; poor records and filing systems and inadequate financial resources for the Judiciary.

As the State initiates the setting up of a Special Prosecutor's Office and a hybrid court, it should be borne in mind that one of the ultimate objectives of the Transitional Justice process is to ensure accountability and justice. Consistent with this demand, and with the objective of improving access to the courts and tribunals, the Judiciary has, since 2021, rolled out a 5-year Strategic Plan.³⁷ In May 2023, the Chief Justice, pursuant to S.143(1) of the 1997 Constitution of The Gambia, also established the Judiciary Prisons Visiting Committee. As per the initiative, the Committee will visit the prisons throughout the

³⁷ Judiciary of The Gambia Strategic Plan 2021-25.

country to review the status of persons held in remand custody or whose cases are on appeal. The visits will avail the Committee of the opportunity to identify the obstacles impeding the expeditious disposal of cases and submit a report with recommendations to the Hon. Chief Justice. This exercise will be conducted every six months. However, as noted above, there remain significant challenges in ensuring access to justice in The Gambia. The Judiciary of The Gambia is therefore urged to continue partnering with development agencies and the State to ensure the realization of the Strategic Plan and to bring justice closer to the people.

The National Agency for Legal Aid (NALA) is the primary State agency responsible for providing representation for any person charged with a crime carrying the death sentence or life imprisonment and for children in the exercise of their rights under section 72(1)(f) of the Children's Act 2005. Further, NALA may also provide representation for persons who earn below the 'minimum wage'³⁸ in The Gambia. However, NALA continues to be faced with human and financial resources challenges to effectively fulfill its mandate. The Gambia has also not yet defined what constitutes the 'minimum wage' in the country.

Recommendations to the State

1. Define what constitutes the standard minimum wage to determine qualification for legal aid.
2. Expedite the establishment of the Special Prosecutor's Office and the hybrid court and invest adequate resources in their work.

³⁸ section 30(2) of the Legal Aid Act.

3. Provide adequate resources to the Judiciary for the implementation of its Strategic Plan 2021-2025.
4. Provide adequate resources to NALA for the effective fulfilment of its functions.
5. Fully implement Part VII of the Legal Aid Act which includes the operationalisation of the Legal Aid Fund.

Recommendations to the Judiciary

6. Expand and equip more courts around the country to help decongest courts and expedite trials and hearings.
7. Ensure the effective functioning of the Judiciary Prisons Visiting Committee
8. Ensure the effective implementation of its Strategic Plan 2021-2025

12 Freedom of Expression and Media

The Right to Freedom of Expression and Media as provided in Section 25 of the 1997 Constitution includes the right of every person to “freedom of speech and expression, which shall include the freedom of the press and media.” It also extends to the freedom of expression, thought, conscience and belief which includes academic freedom.

In 2023, The Gambia was ranked 5th in Africa and 46th in the World Press Freedom Index.³⁹ However, during the reporting year, the country experienced some setbacks in the rights to freedom of expression, including of the Media. Between 1st August to 15th October 2023, five instances of arrests involving journalists, political figures and human rights activists took place.⁴⁰ All these arrests were effected when the persons involved expressed their opinions on political issues through online media platforms, traditional media or public discourses.

On 29 September, President Adama Barrow, while opening his National People's Party (NPP) bureau in Bansang, made sweeping remarks against the media, freedom of expression in the country, and the main opposition party.

In the speech, the President decried what he termed as 'abuse of democracy' and irresponsible expression of opinions on certain media platforms by mainly critics of his government. To solve this, the President indicated that he would direct the Inspector General of Police to arrest and detain persons who want to burn down the country and to rearrest anyone granted bail by the Courts. The President's statement was condemned by the NHRC, The Gambia Press Union, and the Gambia Bar Association to mention a few who reiterated, amongst other things, the need to uphold the principles and values of good

³⁹ <https://thepoint.gm/africa/gambia/headlines/gambia-makes-significant-progress-in-press-freedom-ranking-pap-saine>.

⁴⁰ Article 19. "The Gambia: Crack down on Free Speech Must Stop." 7th November 2023. Available here: <https://www.article19.org/resources/the-gambia-crackdown-on-free-speech-must-stop/>. (Last accessed 12th January 2024).

governance, respect for the rule of law, and honouring decisions, judgments and rulings of the Judiciary.

Additionally, concerns were also raised over charges brought against Mr. Madi Jobarteh, a human rights activist, for seditious intention, false publication and broadcasting, and incitement to violence.⁴¹ The reports also indicated that his arrest was in relation to comments he made on social media.⁴²

As indicated in the previous reporting year, sections 51 and 52 of the Criminal Code still prohibits sedition and criminalises hateful remarks against the President of the Republic, despite the State's acceptance of recommendations to repeal these sections following its participation in the third cycle of the Universal Periodic Review in November 2019.

Recommendations to the Government

1. Refrain from stifling freedom of speech, including that of the Media.
2. Take steps to repeal sections 51-54 of the Criminal Code;
3. Respect, honour and enforce decisions, judgments and rulings of the Court.
4. Ensure media and freedom of expression provisions contained within the Constitution comply with international standards, as outlined under article 19 of the International Covenant on Civil and Political Rights.

⁴¹ <https://www.gambia.com/police-charge-madi-jobarteh-with-seditious-intention-false-publication/>.

⁴² <https://thepoint.gm/africa/gambia/headlines/madi-jobarteh-arrested-whereabouts-unknown>.

13 Freedom of Association and Assembly

The right to freedom of association and assembly as guaranteed by Section 25 of the 1997 Constitution gives persons in The Gambia the right to assemble and demonstrate peaceably without arms; and freedom to associate, which shall include freedom to form and join associations and unions, including political parties and trade unions.

This right as guaranteed in the Constitution is, however, subject to the laws of The Gambia “in so far as that law imposes reasonable restrictions on the exercise of the rights and freedoms conferred which are necessary in a democratic society and are required in the interest of the sovereignty and integrity of The Gambia, national security, public order, decency or morality, or in relation to contempt of court.”⁴³

In addition to the above-mentioned restriction, section 5 of the Public Order Act also bars the full enjoyment of a person’s right to freely assemble in the country to the extent that it subjects the right to assembly to the discretion of the Inspector General of Police. Thus, persons wishing to exercise their constitutional right to assembly must obtain a permit or license from the Inspector General of Police or Governor of a Region as the case may be.

⁴³ Section 25 (4) of the 1997 Constitution of The Gambia.

In fulfillment of the State's obligation on the right to assembly, significant progress was recorded as the UDP Youth Wing was granted permit to march against corruption in the Gambia on 10 March 2023. Further, on 22nd July 2023, Strive for Gambia Concern Citizens was granted permit to march against the deportation of Gambians from Europe.

In a bid to harmonise section 5 of the Public Order Act with international human rights standards, particularly those outlined by the African Commission on Human and Peoples' Rights on Policing of Public Assemblies in Africa, a proposed amendment of the Public Order Act was tabled by a Member of the National Assembly. The Bill was, however, rejected with 25 members voting against the amendment while 18 voted in favour of it.

Recommendations to the State

1. Amend Section 5 of the Public Order Act and replace the issuance of permit with notification.
2. Integrate the Guidelines on Policing of Public Assemblies in The Gambia developed by the NHRC into the curriculum of the Gambia Police Force.
3. Train law enforcers on the Guidelines on Policing Public Assemblies in The Gambia.
4. Amend the Criminal Code and the Public Order Act to bring them in line with The Gambia's international obligations under the ICCPR and the African Charter on Human and Peoples' Rights.

14 Right to Vote and Participate

As required by the Local Government Act 2002 as amended, Gambians went to the polls to elect their Councilors and Chairpersons and Mayors/Mayoress of the Councils on 15 April 2023 and 20 May 2023 respectively, marking an end to the 2021-2023 electoral cycle. The National Human Rights Commission monitored the campaign period, the voting day, and media reports on the election.

During the Councilor election, the NHRC and its partners observed polling at one hundred and fourteen (114) polling stations across the country. For the Mayor/Mayoress and Chairperson election, NHRC observers monitored twenty (20) political campaigns and observed polling in one hundred and fourteen (114) polling stations throughout the country. The observers were guided by a checklist developed by the NHRC informed by electoral best practices. Generally, the elections were observed to be fair, human rights compliant and violence-free. However, voter apathy was observed in all the polling stations monitored.

Further, contrary to the provisions of the Persons with Disabilities Act 2021 and the UN Convention on the Rights of Persons with Disabilities, accessing the polling stations was a challenge for voters with physical impairment and more especially for wheelchair users as some of the polling stations had no ramps. Visually impaired people also continue to cast ballots through their helpers which could be possible violations of the secret ballot requirements. Election information

materials were also not available in braille form. PWDs were generally greatly underrepresented in the candidates who ran for office.

It was also observed that political parties across the country had few nominated women contenders compared to their male counterparts. Out of 367 successful nominations, only fifty eight (58) were women⁴⁴ representing a meagre 15% of nominations and only seventeen (17) of them won seats, representing 14% of the total possible seats.⁴⁵ Similarly, Women's low representation in the Councils expands the gender gap on such governance bodies. Mayoral elections followed a similar pattern. Only two (2) female candidates were nominated out of twenty-nine (29), and only one (1) won a seat. This represents 12.5% in the mayoral/chairperson positions.

The legal and institutional set up for voting and elections generally do not cover the participation of eligible Gambians living abroad as well as prisoners and persons in detention. Considering the high number of Gambians abroad and the need to give every eligible individual a chance to vote, The Gambia should take measures to extend participation to these individuals.

⁴⁴ <https://iec.gm/download/statistic-on-the-nominated-candidates-as-per-party-for-councillorship-elections-2023/>.

⁴⁵ <https://iec.gm/download/final-results-of-the-councilors-elections-15th-april-2023/>.

Recommendations to IEC

1. Urgently consider holding Presidential, Parliamentary and Local Government elections on the same day to prevent dwindling voter turnout as observed following the 2021 Presidential election.
2. Increase voter education to reduce voter apathy and respect for electoral stakeholders.
3. Hold polls in disability friendly grounds.
4. The IEC should initiate law reform to enable Diaspora Gambians, persons in detention and prisoners to vote during elections.

Recommendations to Political Parties

1. Put in place a quota system to increase the number of women contenders in elections.
2. Adopt disability-friendly strategies to enable persons with disabilities hold political office by nominating them and supporting their candidacy.

15 TRRC Report and Government White Paper

In May 2023, the Ministry of Justice released the Implementation Plan to the Government White Paper on the Recommendations of the Truth, Reconciliation and Reparation Commission (TRRC) - 2023-2027.⁴⁶ This Plan is a testimony to the Government's commitment to implement the TRRC recommendations fully and effectively in a manner that is transparent, inclusive, and accountable. It outlines the steps that the Government will take to implement the various recommendations and identifies the key stakeholders responsible for implementing them.⁴⁷ Following the release of the Implementation Plan, the Ministry of Justice in December also announced the appointment of a Special Adviser on Transitional Justice who will guide the Ministry in the implementation of the recommendations contained in the Government White Paper.⁴⁸

In line with its Implementation Plan, the Government has also taken other steps to implement the Government's White Paper through the enactment of pertinent legislation to promote and protect human rights and enhance justice and accountability. These include:

⁴⁶ https://twitter.com/Gambia_MOJ/status/1658820876735856641.

⁴⁷ As Above

⁴⁸

https://twitter.com/Gambia_MOJ/status/1730563643064852712/photo/1

1. **The Victims Reparations Act 2023:** The Act establishes the reparations fund to finance individual and collective restitution for victims, provide compensation directly to victims and provide rehabilitation to victims.
2. **Mutual Legal Assistance Act 2023:** The Act enables cooperation between The Gambia and foreign law enforcement agencies in investigating and prosecuting crimes such as requests for assistance in obtaining evidence and witnesses amongst other victims and providing rehabilitation to victims.
3. **Prevention and Prohibition of Torture Act 2023:** The Act seeks to prevent and eradicate the use of torture and other cruel, inhuman treatment or punishment & torture to ensure accountability of acts of torture.
4. **Ban from Public Office Act 2023:** The Act provides a legal framework for the banning of those adversely mentioned in the Report of the TRRC from holding public office.

The Government has also developed a Peace and Reconciliation Commission Bill to establish the Peace and Reconciliation Commission which will oversee the reconciliation agenda. Notwithstanding these efforts, the enactment of other pertinent laws significant to the legislative reform agenda such as the Criminal Offences Bill and the domestication of the International Convention for the Protection of All Persons from Enforced Disappearances ratified by the State in 2018 remain outstanding.

Regarding its prosecution agenda, the Government continues to remain committed to prosecuting individuals identified as

bearing the greatest responsibility for the human rights violations and abuses. This is outlined in its Government White Paper on the TRRC Report and its subsequent Implementation Plan which envisages prosecutions between 2023 - 2027. Towards this end, in October the Ministry of Justice, in partnership with The Gambia Bar Association, developed and validated the Special Prosecutor's Office Bill 2023 and Special Accountability Mechanism Bill 2023.⁴⁹ Once established, the Special Prosecutor's Office will be responsible for the residual investigations and prosecution of persons identified by the TRRC. Although prosecutions of those who bear the greatest responsibility are yet to commence fully in the Gambia, Bai Lowe was found guilty in November 2023 in a court in Germany on charges of crimes against humanity, murder and attempted murder for his role as a driver for the 'Junglers' under the Jammeh regime.⁵⁰ Bai Lowe was identified as the driver of the 'Junglers' on the night Deyda Hydara was murdered.⁵¹ In addition to providing victims with justice, this conviction is significant for efforts towards holding those responsible for atrocity crimes and are not within the jurisdiction. Further, Ousman Sonko, a former Minister of Interior, under the Jammeh era was, on 19 April 2023, also formally charged by the Swiss Attorney General with crimes against humanity and for failing to prevent 'systematic and generalised attacks' against Jammeh's opponents. He is expected to stand trial in Switzerland in January 2024.⁵²

⁴⁹ <https://www.moj.gm/news/e43a1aa6-6e79-11ee-8b02-025103a708b7>

⁵⁰ <https://www.france24.com/en/live-news/20231130-alleged-gambian-death-squad-member-awaits-verdict-in-german-trial>

⁵¹ As Above

⁵² at the time of preparing the report, the trial was on-going.

Recommendations to the Ministry of Justice

1. Take the necessary steps to ensure adequate resources are available for the Implementation Plan to the Government's White Paper on the Recommendations of TRRC.
2. Take the necessary steps to expedite the passing of the Special Prosecutions Office Bill 2023 and the Special Accountability Mechanism Bill 2023.
3. Take necessary steps to domesticate the International Convention for the Protection of All Persons from Enforced Disappearances ratified in 2018.

Recommendation to the National Assembly and the Ministry of Justice

4. Expedite the passing of the Criminal Offences Bill and the Ministry of Justice to ensure that witchcraft and hate speech are criminalized in the Bill before it is passed;

Recommendation to the Ministry of Finance

5. Allocate adequate financial resources for the implementation of the White Paper, including allocating funds for implementation in the national budget.

Recommendation to the Ministry of Interior

6. Take the necessary steps to table and expedite the passing of the Peace Reconciliation and Reparations Bill.

16 Right to Health and Outbreak of Acute Kidney Injury Affecting Children

In August 2022, the Ministry of Health confirmed the outbreak of a rare health condition known as Acute Kidney Injury (AKI). To address the outbreak of the disease, the Government in October 2022 announced the setting up of the Presidential Task Force to investigate the death of the 70 children.⁵³

In July 2023, the Task Force presented its Report to the President. The Report recommended inter alia that the Government of The Gambia permanently revoke the importation license of Atlantic Pharmacy Company Limited and their Directors.⁵⁴ It also recommended that the Ministry of Health should: review the laws and regulations governing the issuance of pharmaceutical import licenses and put in place stringent conditions for the approving of importers based on their qualifications and operate with a high degree of accountability and responsibility, rather than being motivated by profit.⁵⁵

Other recommendations included holding to account through prosecutions the heads of the MCA and exploring the possibility of further legal action against Atlantic Pharmaceuticals and

⁵³ <https://h-leads.com/gambian-child-deaths-spur-probe-into-cough-syrup/>

⁵⁴ Report of the Task Force Established to inquire into the Death of Children as a Result of Consumption of Contaminated Medicines Imported into the Country from India that is suspected to cause Acute Injury

⁵⁵ As Above.

Maiden Pharmaceuticals to seek criminal and civil redress on behalf of families of victims of the infection.⁵⁶ The Government, in response to the recommendations of the Task Force, dismissed the Executive Director of the MCA and terminated the services of the Deputy Executive Secretary.⁵⁷ The Report was also forwarded to the GPF for further action.⁵⁸ The Government has also confirmed that it is exploring legal action against Atlantic and Maiden Pharmaceuticals and has engaged the services of an international legal firm for advice.⁵⁹ Families of victims of AKI have also instituted civil suit against the Government at the High Court. While the State expressed interest in out of court settlement, no such settlement has been reached yet.⁶⁰

In terms of infant mortality, the rate for 2023 was thirty-eight thousand one hundred and seventy-eight thousand (38.178) deaths per one thousand (1000) live births, a 3.37% decline from 2022.⁶¹ Though this is an improvement from the previous year, the figure remains high.

⁵⁶ <https://gainako.com/mohs-statement-at-launch-of-aki-presidential-taskforce-report/>

⁵⁷ As Above.

⁵⁸ <https://gainako.com/mohs-statement-at-launch-of-aki-presidential-taskforce-report/>

⁵⁹ As Above.

⁶⁰ https://www.kerrfatou.com/government-and-aki-victims-families-yet-to-reach-agreement-on-out-of-court-settlement/#google_vignette.

⁶¹ Macrotrends 'Infant mortality rate in the Gambia'
<https://www.macrotrends.net/global-metrics/countries/GMB/gambia/infant-mortality-rate#:~:text=The%20infant%20mortality%20rate%20for,a%203.26%25%20decline%20from%202021>.

Recommendations to the Ministry of Health

1. Take the necessary steps to implement the Acute Kidney Injury Presidential Task Force Report.
2. Implement quality control measures to curb importation and sale of dangerous drugs.
3. Conduct a holistic review of laws and regulations governing the issuance of import licenses for pharmaceutical products and strengthen the Medical Control Agency.
4. Continue exploring avenues of settling the cases with the families by engaging in productive dialogue with the victims' families through calls, and meetings.
5. Improve infant health and welfare measures in the basic health care service provisions.

16.1 Mental health

Mental health continues to be one of the neglected areas in health care in The Gambia. Since the African Commission on Human and Peoples' Rights' decision in the case of *Purohit and Moore v The Gambia*,⁶² the status of mental health rights has come under international attention. The laws and policies governing mental health in The Gambia, especially the Lunatics Detention Act 1917, are outdated and at odds with international human rights standards. In May 2023, the NHRC validated an Advisory Note on Mental Health Rights in The Gambia. The

⁶² Communication No. 241/2001 (2003).

background study that informed the Advisory Note brought to light significant legal, financial and human capacity gaps that continue to hinder availability and adequacy of mental health services. Further in November 2023, the Commission received a complaint about the horrible state of a facility in Lamin purporting to provide cure for mental health patients. Preliminary investigations suggest that various fundamental rights, including the right to dignity, security of the person as well as protection from inhumane treatment of patients, are being violated in the facility. Consequently, several steps should be taken to ameliorate the condition of mental health patients in The Gambia.

Recommendations to the Ministry of Health

1. Collaborate with the Ministry of Justice, Ministry of Gender, Children and Social Welfare and conduct a comprehensive review of laws and policies relevant to mental health, with a view to bringing them in line with The Gambia's international obligations.
2. Facilitate, in collaboration with the Ministry of Justice, the implementation of the ACHPR's recommendations in the Purohit & Moore case.
3. Expedite the tabling before the National Assembly of the new Mental Health Bill and ensure the repeal of the legal framework allowing substituted decision making to provide consent on behalf of persons with disabilities and introduce supported decision-making, ensuring its availability for those who request it.
4. Collaborate with the Ministry of Justice to develop a Bill incorporating safeguards against deprivation of liberty

based on impairment of the mind and push for enactment of the Bill by the National Assembly.

5. Conduct national awareness raising campaigns on mental health.
6. Include mental health in the basic healthcare provision facilities and build and equip more mental health facilities, rehabilitation centers, and counselling centers.

17 **Trafficking in Persons**

Trafficking in persons is defined as the “recruitment, transport, harbouring and receipt of persons through deceit, threat or use of force or abduction or abuse of power for exploitative purposes”.⁶³ According to the Palermo Protocol which The Gambia is a party to, efforts to address trafficking in persons involves a combination of criminal legislative measures, law enforcement actions, preventative measures and victim support services amongst others.⁶⁴

During the reporting year the State has taken noteworthy steps to address Trafficking in Persons in the Country. It investigated

⁶³ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Trans Organized Crime.
<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>.

⁶⁴ As Above.

8 suspects and prosecuted 6 alleged traffickers during the reporting year.⁶⁵ On 27 February one Jarome Jatta was sentenced by Justice Osei Tutu to 15 years imprisonment with a fine of GMB100, 000 (one hundred thousand dalasis) and in default to serve forty months imprisonment for human trafficking.⁶⁶ Equally in April, Justice Jaiteh also convicted one Jenifer Ozuem, a Nigerian on two counts of trafficking and importation of persons and sentenced her to 15 years imprisonment and fined GMB 50,000(fifty thousand dalasis) for each count.⁶⁷

Notwithstanding the positive steps taken by the State to prosecute suspects of human trafficking, The Gambia continues to remain in Tier 2 category as per the US Department of State Trafficking in Persons Report 2023. According to the US Department of State Report, the Gambia registered gains by prosecuting and convicting sex traffickers, identified more victims and increased capacity of officials through training.⁶⁸ However, the Report indicated that the State didn't successfully meet the minimum standards in other important areas such as victim support services, with only one shelter available in the country with staff having limited training on trauma for the vulnerable including trafficking victims.⁶⁹ Other issues

⁶⁵ US Department of State 2023 Trafficking in Persons Report: The Gambia.
<https://www.state.gov/reports/2023-trafficking-in-persons-report/the-gambia>.

⁶⁶ TEACHER GETS 15 YEARS FOR TRAFFICKING STUDENT – The Standard Newspaper | Gambia

⁶⁷ Nigerian Convicted For Trafficking Woman Into Gambia For Prostitution – The Standard Newspaper | Gambia.

⁶⁸ As Above.

⁶⁹ As Above.

identified included limited resources available to State agencies to effectively address trafficking and limited efforts by the State to control international labor recruitment in spite of exploitation of Gambian victims outside the Gambia.⁷⁰

Recommendations to the Ministry of Justice

1. Provide adequate budgetary allocation to NAATIP for effective implementation of the Trafficking in Persons Act 2007.
2. Strengthen NAATIP's institutional capacity and power to investigate and prosecute trafficking in persons crimes.
3. Revise the Trafficking in Persons Act 2007 to bring it in conformity with the Palermo Protocol and international best practices in prevention and prohibition of trafficking in persons.
4. Amend the labour law to extend protections to domestic workers and regulate labour recruiters; regulate and monitor labour recruitment agencies and investigate entities suspected of fraudulently recruiting workers for exploitation abroad.
5. Establish shelters specifically for the care of victims of trafficking.

⁷⁰ As Above.

Recommendations to NAATIP

1. Intensify awareness raising on the TIP Act 2007 and procedures for reporting of crime of trafficking in persons and suspected cases.
2. Train shelter staff on victim-centered, trauma-informed care approaches.
3. Proactively screen vulnerable populations, including Gambian migrants, individuals in commercial sex, and foreign workers, for trafficking indicators and refer trafficking victims to appropriate services.
4. Train law enforcement agents and prosecutors, to investigate and prosecute all forms of trafficking – including child sex tourism – using the 2007 Trafficking in Persons Act.
5. Conduct a national study on trafficking in persons in The Gambia.

18 Rights of Children

The Gambia has ratified the African Charter on the Rights and Welfare of the Child (ACRWC) as well as the UN Convention on the Rights of the Child (CRC). Domestic legislation is also provided for through the Children's Act of 2005. Common features of these three legal frameworks include the prohibition of exploitative labour, child begging, the right to education and the 'best interest of the child principle'. However, enforcement of the legal frameworks remains a challenge as children are deprived of certain protections leading to vulnerabilities. The World Bank (WB) estimates that because of limited education, health care, and social safety net services, children in the Gambia achieve only 40% of their full productivity potential.⁷¹ Further, child street begging and presence of children in auto mechanic workshops, fishing and mining areas remains a problem in The Gambia. Corporal punishment for children still remains a means of 'disciplining' children in the care, school and family settings. The Afrobarometer published in November 2023 revealed that two-thirds (66%) of Gambians say parents are "sometimes" or "always" justified in using physical force to discipline their children. Opposition to corporal punishment has, however, increased by 12 percentage points since 2018, to 34%.⁷²

⁷¹ CepRass and ors 'Gambians see limited support for vulnerable children, call for a stronger government action 1. <https://www.afrobarometer.org/wp-content/uploads/2023/11/AD729-Gambians-see-limited-support-for-vulnerable-children-Afrobarometer-6nov23.pdf>.

⁷² As above.

Child sexual exploitation in the travel and tourism sector also remains a challenge as children are increasingly vulnerable to sex trafficking in the tourism sector post Covid-19 pandemic.⁷³ The situation is exacerbated as reports suggest that some landlords host tourists in private residences or local compounds outside the commercial tourist areas and hotels, making the crime harder to detect.⁷⁴

In its Advocacy Mission to the Republic of The Gambia held between 29 August 2023 and 01 September 2023, The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) expressed concern over The Gambia's lack of reporting to the Committee since its ratification of the ACRWC on 30th March 2001.⁷⁵ The Gambia should therefore meet its reporting obligations as well as enforce domestic laws to promote and protect children's rights.

Recommendations to the Government

1. Effectively enforce the provisions of the Children's Act, 2005 to eradicate child begging and child labour.
2. Prohibit corporal punishment of children in all settings.
3. Effectively implement the Tourism (Amendment) Act 2014 and prosecute alleged offenders.
4. Comply with the reporting obligations under the ACRWC.

⁷³ US State Department 2023 Trafficking in Persons Report: The Gambia.

⁷⁴ As above.

⁷⁵ ACERWC Advocacy Mission on Reporting in the Republic of The Gambia <https://www.acerwc.africa/en/article/activity/advocacy-mission-reporting-republic-gambia>.

19 Rights of Women and Girls

The rights of women to full and equal dignity, equal opportunities in politics, economic and social activities and equal treatment to men are protected in the 1997 Constitution.⁷⁶ The Gambia has also enacted a series of legislation protecting the rights of women and ratified and domesticated international and regional treaties which guarantee these rights, in particular CEDAW and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol).

Despite significant progress being registered, some challenges remain. Statistically, four (4) out of ten (10) Gambians say that the Government is doing a very good job in promoting equal rights and opportunities for women, while 56% disapprove of the government's performance.⁷⁷ Likewise, 74% of Gambians say women should have the same chance as men of being elected in public office.⁷⁸ In the period under review, fifty eight (58) women received nomination for one hundred and twenty (120) local Council elected positions, of which only seventeen

⁷⁶ As above sec 28.

⁷⁷ Afrobarometer Dispatch N0. 663 | Baboucarr Fatty and Maame Akua Amoah Twum, "Gender equality in the Gambia: Citizens demand greater government efforts." 3rd July 2023. Available at: <https://www.afrobarometer.org/wp-content/uploads/2023/07/AD663-Gender-equality-in-Gambia-Citizens-demand-greater-government-efforts-Afrobarometer-1july23.pdf>. (last accessed 15th January 2024).

⁷⁸ As above.

(17) of them won seats. This is the highest ever number of aspiring female candidates, and the highest ever number of women to be elected in the Local Government election.⁷⁹ This reality falls below the minimum standards, such as legislated gender quotas in decision-making positions. It is worthy to note that the United Nations at the 1995 Beijing Conference on Women set a gender quota of 30% for women representation in decision-making processes.⁸⁰

In September, some members of the National Assembly (NA) supported a motion for the repeal of the Women's (Amendment) Act 2015 which prohibits and punishes the practice of Female Genital Mutilation (FGM) in The Gambia.⁸¹ This move came after a Magistrate in a rural town (Kaur) convicted three women for their part in subjecting a young girl to FGM in contravention of Section 32(a) and (b) of the aforementioned Act. The National Human Rights Commission in its press statement urged the National Assembly to remain the primary protector of human rights and that any attempt to repeal the anti-FGM law would not only put the lives of children at risk but also amount to derogation of The Gambia's obligations under national,

⁷⁹ UNFPA, Promoting women's participation in politics: Sirah's Journey, 17th April 2023. Available here: <https://gambia.unfpa.org/en/news/promoting-womens-participation-politics-sirahs-journey>. (Last accessed 15th January 2024).

⁸⁰ S Nabaneh 'Women's Political Participation in The Gambia: Gender Quotas as Fast Track to Equality' 2022 <https://blog-iacl-aidc.org/new-blog-3/2022/1/25/womens-political-participation-in-the-gambia-gender-quotas-as-fast-track-to-equality-b5a94>.

⁸¹ <https://www.theguardian.com/global-development/2023/oct/11/fgm-ban-in-the-gambia-under-threat-as-calls-grow-to-repeal-law>.

regional, and international human rights and its commitment to protect rights of its children and women.⁸²

Recommendations to the State and Political Parties

1. Political parties should increase the number of women contenders during elections.
2. The Ministry of Gender, Children and Social Welfare, Ministry of Justice and National Assembly should initiate law reform to entrench gender quota participation of women in the electoral laws.

Recommendations to the Ministry of Gender, Children and Social Welfare

3. Intensify efforts to enhance rights of women through: engaging stakeholders, engaging victims of SGBV and their families, support investigations and offer services to victims and calling out acts of SGBV.
4. Take all necessary efforts, including advocacy with the National Assembly, to ensure that the Women's (Amendment) Act 2015 is not repealed by the National Assembly
5. Work with the Gambia Police Force to enforce the ban on FGM.

⁸² National Human Rights Commission Press Statement Attempts by Some National Assembly Members to Repeal the Laws which Criminalise Female Genital Mutilation/Cutting (FGM/C) in The Gambia.

6. Raise awareness on the legislation against FGM and educate families, communities and traditional and religious leaders on the law.
7. Effectively implement all the recommendations on FGM as contained in the 2022 CEDAW Concluding Observations and the 2019 UPR Working Group Report on The Gambia.

20 Rights of Older Persons

Despite efforts, including awareness raising and advocacy initiatives by the Working Group on Older Persons and Persons with Disabilities in Africa, to promote the ratification of the AU Protocol on the Rights of Older Persons in Africa, ratification by States continue to remain low with the Gambia being one of the States that is yet to ratify the Protocol.⁸³ The Working Group during the 77th Regular Session of the ACHPR urged States to ratify the Protocol on the Rights of Older Persons to ensure its entry into force.⁸⁴

Currently, there is no legislation in place to promote and protect the rights of older persons in The Gambia. However, the Protocol has been approved by Cabinet and is due to be submitted to the NA by the Ministry of Gender, Children and

⁸³ <https://achpr.au.int/en/intersession-activity-reports/working-group-rights-older-persons-and-persons-disabilities>.

⁸⁴ As Above.

Social Welfare for ratification.⁸⁵ Therefore, the Protocol, when ratified, will require the Gambia to “protect the rights of older persons through legislation and other measures, prevent discrimination, guarantee access to health, social protection and ensure their protection in conflict and Disaster Situations”.⁸⁶

Recommendations to the Ministry of Gender, Children and Social Welfare

1. Take necessary steps to ensure the State signs and ratifies the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa;
2. Work with the Ministry of Justice to have in place a legislation that protects the rights of older persons.

⁸⁵ Email from Sola Mahoney, Ageing With A Smile dated 6 March 2024.

⁸⁶ Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons In Africa.

According to the World Health Organization (WHO), 16% of the world's population experiences significant disability.⁸⁷ The Gambia has not conducted a recent census on disabilities, although the 1998 National Disability Study put the disability prevalence rate at 1.6 per cent of the Population.⁸⁸ The 2013 Population and Housing Census indicated a 1.2 per cent disability prevalence in the Gambia.⁸⁹

Following the enactment of the Persons with Disabilities Act in 2021 to promote and protect the rights of persons with disabilities, there have been some challenges to the implementation of the Act. In September 2023 the NHRC held a Disability Rights Forum with OPDs where the provisions of the Act, challenges being faced by persons with disabilities and steps to be taken to ensure the effective implementation and enforcement of the Act were deliberated.⁹⁰ Some of the major challenges identified to be impeding the effective enforcement and implementation of the Act included limited technical and

⁸⁷ <https://www.who.int/news-room/fact-sheets/detail/disability-and-health>.

⁸⁸ Nabaneh 'Country report: The Gambia' (2018) 6 *African Disability Rights Yearbook* 232-248.

⁸⁹ As Above.

⁹⁰ National Human Rights Commission Disability Rights Forum "Advancing The Rights Of Persons With Disabilities In The Gambia" 25–26 October, 2023.

material resources,⁹¹ budgetary constraints to address the needs of persons with disabilities and the slow setting up of the Secretariat of the National Advisory Council for Persons with Disabilities .⁹²

Notwithstanding the challenges to implementation, the Ministry of Gender, Children and Social Welfare has taken some steps to implement the Act during the reporting year. A Persons with Disability Policy 2022-2031 and a Strategic Work Plan 2022-2026 to guide the implementation of the Policy and Act were approved by Cabinet in September 2023.⁹³ The Ministry has also identified an office space for the setting up of the Secretariat of the Advisory Council, and received items and equipment required to furnish it.

Other efforts have also been made towards popularization of the Act, including community engagements in all the regions to raise awareness on the existence of the Act and to urge the public to support its implementation.⁹⁴ The Ministry of Gender has also engaged the Ministry of Finance to create a budget line for the realization of the Disability Fund established by the Act.⁹⁵

Although the Persons with Disabilities Act 2021 aims to promote and protect the rights of PWDs, its delayed implementation means PWDs continue to face significant challenges, with

⁹¹ <https://gainako.com/how-government-has-implemented-the-disability-act-2021/>.

⁹² As Above.

⁹³ As Above.

⁹⁴ As Above.

⁹⁵ As Above.

stigma, discrimination and lack of access to education, employment and other social services being prominent barriers to their inclusion and well-being.

Recommendations to the Ministry of Gender, Children and Social Welfare

1. Work with the Ministry of Finance to ensure each Ministry is allocated a budget line for the implementation of the PWD Act 2021.
2. Empower the National Advisory Council to enhance its effectiveness.
3. Expedite the setting up of the Secretariat of the National Advisory Council for Persons with Disabilities.
4. Implement the Persons with Disability Policy 2022-2031 and the strategic work plan 2022-2026.
5. Intensify efforts to actively promote and raise awareness on and popularise the PWD Act 2021.

22 Environmental Rights

Environmental Pollution occurs when pollutants contaminate the surroundings, which brings about changes that affect our normal lifestyles adversely.⁹⁶ Air pollution is an environmental health threat accounting for more than one in nine deaths globally.⁹⁷ It is estimated to have contributed to 6.67 million deaths worldwide in 2019 and was the fourth leading risk factor for death globally.⁹⁸ The Gambia is undergoing rapid environmental changes with increasing levels of air pollution due to population growth, large-scale urbanization and economic development, largely powered by burning of fossil fuels that puts many citizens at risk of adverse health outcomes.⁹⁹

The Gambia's main environmental concerns include deforestation, desertification, waste management and water pollution, and most recently, the adverse effects of climate change. One of the leading environmental pollutants in The Gambia is the poor waste management structures nation-wide. Most of the waste generated in the Greater Banjul Area is taken to the Bakoteh dump site, which is in one of the country's most

⁹⁶ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7044178/>.

⁹⁷ Dr. William Avis, Ousman Gaye, Andrew Empson 'Contextualising the Gambia's air pollution challenges' <https://odi.org/en/insights/contextualising-the-gambias-air-pollution-challenges/>

⁹⁸ As above.

⁹⁹ Clean Air Initiative Air Pollution in The Gambia <https://permian-health.org/f/air-quality-in-the-gambia>.

populated areas. There is continuous indiscriminate waste disposal in the area, which is left to rot or regularly burn, creating environmental pollution in the neighboring communities.¹⁰⁰ The pollution in the area deprives inhabitants of the right to clean the environment and water.

Further, the advent of fishmeal factories in Kombo South brought with it adverse consequences on the environment. The wastewater that the fishmeal factories emit continues to pollute the environment. Amnesty International reported the continued discharge of wastewater into the shallows of the ocean and its attendant consequences on the ecosystem and the environment.¹⁰¹ This is compounded by the noxious smell that is emitted by the factories. Community members have consistently complained of the smell that comes from these factories. Consequently, the State is reminded of the consequences of the continuous breach of the Environment Impact Assessment Regulations 2014, including public consultations requirement rigorously enforce and implement these regulations to ensure the right to clean environment is attained. The State should investigate the issue of the noxious smell and potential violations of the right to health and the right to a healthy environment, as well as compliance with Gambia environmental laws and regulations.¹⁰²

¹⁰⁰ NDP 2023-2027 P284.

¹⁰¹ Amnesty International, The Human Cost of Over-Fishing in The Gambia.

¹⁰² Amnesty International, The Human Cost of Over-Fishing in The Gambia p50.

Recommendations to the Ministry of Environment, Climate Change and Natural Resources

1. Collaborate with the Municipal Councils to develop a comprehensive waste collection and management system in the urban areas as well as communities.
2. Investigate the issue of the noxious smell around the fishmeal factories and prosecute any violations of national environmental laws and regulations.
3. Expedite the enactment of the National Environment Management Bill 2022 and the Waste Bill 2022.
4. Support the development and implementation of a National Action Plan on Business and Human Rights.

23 Economic, Social and Cultural (ESC) Rights

ESC rights play a crucial role in the improvement of lives and standards of living. These rights include the rights to food, adequate standard of living, health, education, employment, housing, and development. While the right to education is protected under the Constitution, the other socio-economic rights are put under the Directive Principles of State Policy and are non-justiciable. However, ESC rights are guaranteed in various international instruments that The Gambia is a party to.

2023 saw several indications of State failure to protect and fulfil some of the ESC rights in The Gambia. In 2022, NHRC flagged the lack of fulfilment of economic, social, and cultural rights as one of the contributing factors to the high number of 'back way' migration and the resultant casualties at sea and during the perilous journey across the Sahel and Sahara Desert.¹⁰³ On 14 October 2023, a boat with over forty five (45) youths from Jambur left Kartong for Europe on a boat which was later reported to have capsized on 17 October 2023 with over forty one (41) people said to have died.¹⁰⁴ This tragedy is not an isolated incident as The Gambia continues to record significant numbers of youth migration and loss of lives on the perilous journeys. The Government of The Gambia should therefore, in addition to the 2020-2030 Migration Policy, devise strategies to employ and retain its youthful population in The Gambia and avoid unwarranted loss of life and brain drain.

In March 2023, pursuant to an agreement between The Gambia and the European Union, a group of thirty-three (33) Gambians were deported from Europe. The Director of Diaspora and Migration at the Ministry of Foreign Affairs, International Cooperation and Gambians Abroad said these deportees were from Germany, Italy and Belgium.¹⁰⁵ Even though the search for better economic opportunities has influenced human movement for centuries, many countries restrict movement on

¹⁰³ NHRC State of Human Rights Report 2022 p66.

¹⁰⁴ Pa Modou Cham 'Irregular migration: A devastating journey claiming lives of young Gambians' *The Point*.
<https://thepoint.gm/africa/gambia/headlines/irregular-migration-a-devastating-journey-claiming-lives-of-young-gambians>

¹⁰⁵ The standard newspaper, 10th March, 2023: <https://standard.gm/33-fresh-deportees-arrive-from-europe/>

this basis and rely on international agreements to deport migrants. The conditions under which these migrants are detained and deported have always caused a stir in the human rights realm. Consequently, for The Gambia to minimize the mistreatment of its citizens beyond its borders, it should strive to improve the livelihoods of its people. The enjoyment of ESC rights goes to the heart of human dignity which is the foundational basis for the enjoyment of all rights.¹⁰⁶ Further, as part of The Gambia's Global Compact Commitment on Migration, the State agreed to promote gender-responsive and child-sensitive return and reintegration programmes, guaranteeing that all assisted voluntary returns effectively take place on the basis of the migrant's free, prior and informed consent, and ensuring returning migrants have equal access to justice, social protection, decent work and other human rights. The State should therefore develop reintegration programs to cater for returnees and deportees.

Inflation and price hikes have significantly affected access to affordable services, including healthcare, education, food and other daily basic needs in The Gambia. The situation is exacerbated by global health concerns such as Covid-19, economic and financial instability, as well as recurrent climate shocks resulting to very weak domestic production and further making the country more dependent on import. Data from The Gambia Bureau of Statistic shows an inflation rate of 18.5% (a record high in the last 20 years) in September 2023, largely driven by food prices which surged by 24.39%. Furthermore,

¹⁰⁶ S Bah 'Making Economic, Social and Cultural Rights a Reality in "New Gambia": Lessons from the 1997 Constitution' available at <https://www.lawhubgambia.com/lawhug-net/newgambia-economic-social-cultural-rights>

the local currency depreciated by 9.6% within the last year, adding to price volatility. The global crisis and conflicts have also had a negative impact on local markets.¹⁰⁷

This high inflation, coupled with The Gambian Dalasi currency volatility, has a ripple effect on the right to food. Basic food commodity prices such as maize prices saw 46.2% increase in 2023 compared to the same period in 2022; rice prices went up to 11.6% since September 2022 and 35.6% above the 5-year average Consumer Price Index (CPI): A rise of 25% for food, and 24.5% for bread and cereals while meat prices reached 15.2% increment compared to last year. Onion prices surged to 52.4% rise in one year.¹⁰⁸

Thus, according to the latest “Cadre Harmonisé” (CH) analysis, in The Gambia nearly 320 000 people were estimated to have faced acute food insecurity during the lean season between June and August 2023, including about 20 000 people in CH Phase 4 (Emergency). This represents a deterioration compared to 2022, when nearly 207 000 people were estimated to need humanitarian assistance.¹⁰⁹ In 2023, the NHRC, pursuant to its

¹⁰⁷ https://reliefweb.int/report/gambia/joint-market-bulletin-report-september-2023?_gl=1*9l7ci7*_ga*MTkxNTc4MDA2Mi4xNjcyMzA4MzE3*_ga_E60ZNX2F68*MTcwNDk3ODE0NC40LjEuMTcwNDk3ODE2MC40NC4wLjA.

¹⁰⁸ Joint Market Bulletin Report, September 2023
https://reliefweb.int/report/gambia/joint-market-bulletin-report-september-2023?_gl=1*9l7ci7*_ga*MTkxNTc4MDA2Mi4xNjcyMzA4MzE3*_ga_E60ZNX2F68*MTcwNDk3ODE0NC40LjEuMTcwNDk3ODE2MC40NC4wLjA.

¹⁰⁹ GIEWS Country Brief: Gambia 12-October-2023
<https://reliefweb.int/report/gambia/giews-country-brief-gambia-12-october->

advisory mandate, has developed an advisory note on the right to food with support from the FAO. The Advisory note analyses the State obligations on the realisation of the right to food and proffers recommendations for the State to realise this right. The obligations imposed by this right requires, at a minimum, that the State creates the necessary enabling conditions, including laws, policies, and structures, for its people to enjoy or have access to necessities such as adequate food and nutrition.¹¹⁰ The State is urged to make use of this Advisory Note to enhance its efforts in ensuring the realisation of the right to food.

In terms of infrastructure, the NHRC acknowledges the rapid improvement in the area especially with the ongoing Organisation of Islamic Cooperation (OIC) roads construction project. Infrastructure is an important component in the development of the country. However, considering the population density in the areas where the roads pass through, accessibility of pedestrians needs to be considered. Contrary to the hope of decongesting traffic, reports suggest that the roads not only contribute to traffic congestion but also restricts mobility and access of pedestrians.¹¹¹ This is as a result of the absence of pedestrian by-passes. The frequent accidents on the roads have also reportedly claimed 16 lives as of 17 January 2024.¹¹² It is therefore important for the State to balance

2023?_gl=1*6paqsa*_ga*MTkxNTc4MDA2Mi4xNjcyMzA4MzE3*_ga_E60ZNX2F68*MTcwNDk3ODE0NC40LjEuMTcwNDk3OTQ2Mi40OS4wLjA.

¹¹⁰ NHRC Advisory Note on the Right to Food p 5.

¹¹¹ The OIC Road Infrastructure Project: A Triad Of Failures In Design, Efficiency And Integrity – Kerr Fatou Online Media House.

¹¹² Driving Change: Promoting Road Safety For Safer Travel In Urban Gambia – The Standard Newspaper | Gambia.

infrastructure development with the protection of rights of the population.

Recommendations to the Government

1. Devise strategies to curb the 'backway' to Europe syndrome amongst the youth, including vocational and livelihood skills development.
2. Conduct a national study to understand the "push" factors or drivers of the 'back way' to Europe syndrome and adopt findings and recommendations to put in place efficient strategies to address youth unemployment:
3. Adopt broad-based, holistic, and sector-wide approach to the challenges of irregular migration.
4. Effectively implement the National Migration Policy 2020-2030 which stipulates the strategies for better migration management and governance.
5. Develop gender sensitive and child friendly reintegration programs to cater for returnees and deportees.
6. Develop price control mechanisms to curb the skyrocketing of prices of basic commodities.
7. Promote and invest in mechanised agriculture to ensure food security in The Gambia.
8. Provide adequate resources for Technical and Vocational Education and Training (TVET) in the country.
9. Work with countries where Gambians are deported from to ensure humane treatment of the deportees while in detention and when being deported.
10. Enact legislation on smuggling and effectively implement and enforce the law.

11. Enhance the capacity of the Immigration Department and the Navy for effective patrol of the borders and coastlines,
12. Expedite the adoption of the Draft 2020 Constitution which guarantees ESC rights, including the right to development.
13. The National Roads Authority should improve architectural design of the roads to enhance accessibility and minimise risks of accidents.

24 Business and Human Rights

Over the years, business and human rights has significantly featured in the global human rights agenda as States and intergovernmental organisations seek to strike a balance between the need for the operation of businesses and for corporate accountability. This led to the adoption of the UN Guiding Principles (UNGPs) on Business and Human Rights in 2011.¹¹³ 'The UNGPs are anchored on three foundational principles: the state duty to protect human rights, corporate responsibility to respect human rights, and access to remedy. Consequently, the UNGPs provide an allocation of tasks between states (as duty bearers with regard to the protection and realisation of human rights established in international treaties) and companies, which are duty-bound to respect rights and apply due diligence in their activities, especially

¹¹³ UN Human Rights Council Resolution 17/4.

when operating in weak zones.’¹¹⁴ As indicated below, The Gambia needs to enhance its regulatory framework on Business and Human Rights to ensure compliance with the UNGPs.

One of the business sectors in which human rights are reported to be violated is the fisheries sector. Amnesty International, revealed that “the malpractice by certain actors in the fishing industry is harming the environment and undermining people’s livelihoods. Furthermore, the Gambian authorities must urgently take all measures to end all forms of illegal fishing and protect the human and economic rights of the affected communities.”¹¹⁵

The Regional Director of Amnesty International for West and Central Africa has urged The Gambia Government to eliminate all forms of illegal, unregulated and unreported fishing activities in the country.¹¹⁶ The presence of fishmeal factories along the coastal villages of the country continues to negatively impact the livelihoods of the people, as seen in the community of Sanyang which has experienced a severe social and economic setback following the establishment of a fishmeal industry.¹¹⁷

In the year under review, the Amnesty International report also confirmed that artisanal fisherpersons are competing with

¹¹⁴ Friedrich-Ebert-Stiftung ‘The State of Business and Human Rights in Africa’.

¹¹⁵ Amnesty International ‘The Human Cost of Overfishing: How the overuse of fisheries resources in Sanyang Threatens Human Rights’ 2023.

¹¹⁶ As above.

¹¹⁷ The Point, ‘Amnesty Int’l urges gov’t to protect rights against illegal fishing’, (June 1, 2023) Available at <https://thepoint.gm/africa/gambia/headlines/amnesty-intl-urges-govt-to-protect-rights-against-illegal-fishing> (Accessed 10 July 2023).

larger and more sophisticated foreign vessels. This results in food insecurity and loss of livelihoods. The Gambian government must therefore take all necessary steps to eliminate illegal, unregulated, and unreported fishing (IUUF), combat overfishing, and increase the transparency of fishing agreements to protect local communities in The Gambia.¹¹⁸

Generally, data and awareness on business and human rights is lacking in The Gambia. The extent of business impacts on human rights is little known; the legal framework on business and human rights is weak while enforcement of the existing framework remains low. Consequently, the Government needs to accelerate efforts to not only to protect human rights in business, but also to remedy violations. The NHRC therefore urges the Government of the Gambia to collaborate with the Commission to establish a National Working Group on Business and Human Rights to kick start the process of conducting a baseline assessment as well as developing a National Action Plan on Business and Human Rights.

Recommendations to the Government

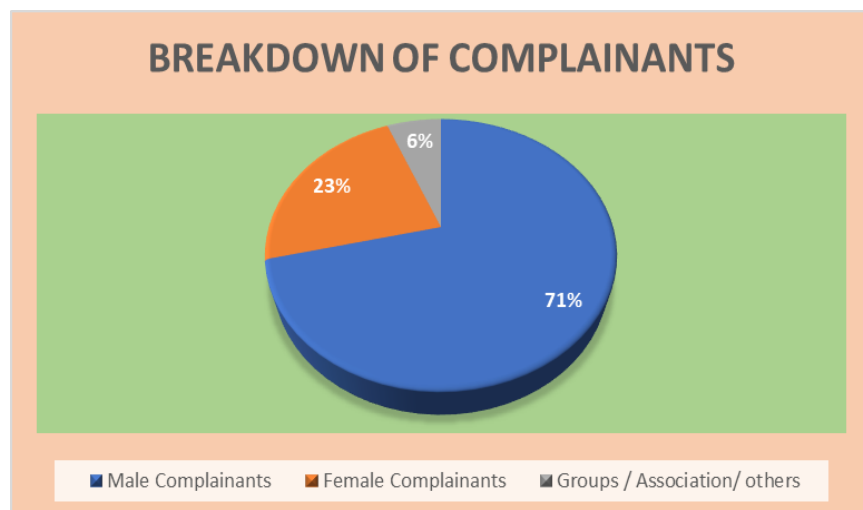
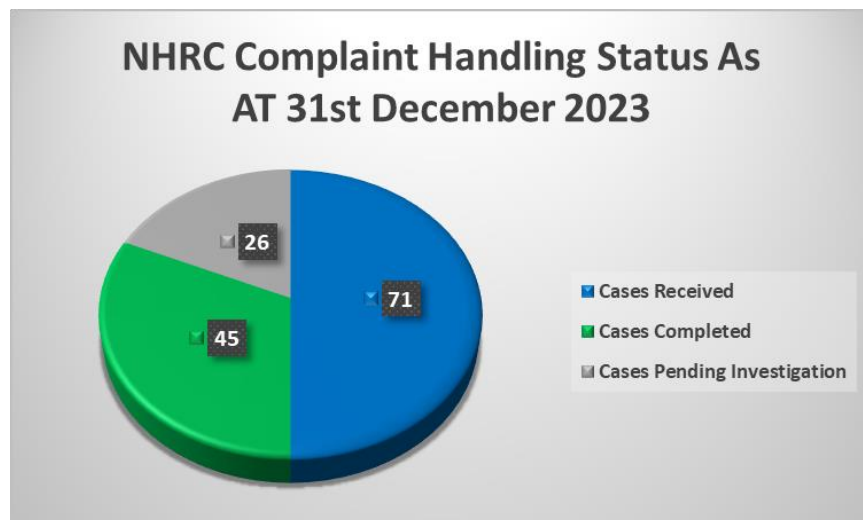
1. Enhance the regulatory framework on Business and Human Rights to ensure compliance with the UNGPs.
2. Take all measures to protect the human and economic rights of the affected communities.
3. Take all necessary steps to eliminate illegal, unregulated, and unreported fishing (IUUF), combat overfishing, and

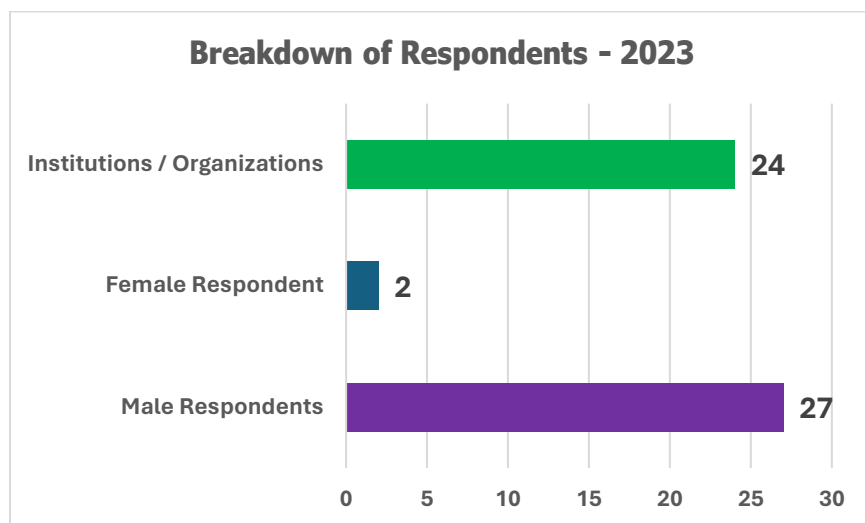
¹¹⁸ Amnesty International The Gambia: Devastating impact of overfishing on local communities.

increase the transparency of fishing agreements to protect local communities in The Gambia.

4. Collaborate with the NHRC to establish a National Working Group on Business and Human Rights to start conducting a baseline assessment and a National Action Plan on BHR.
5. Raise awareness of businesses and the population on the UN Guiding Principles on Business and Human Rights.

25 NHRC Case/Complaint Register 2023





26 Challenges and Recommendations

During the review period, the NHRC achieved significant milestones in the resolution of complaints and follow-ups. Most of the complaints were successfully resolved through legal advice, referrals and alternative dispute resolution as well as seeking appropriate redress for victims of human rights violations.

However, despite the strides made by the Commission in receiving and handling complaints, it faced challenges in the form of low cooperation from duty bearers especially the Gambia Police Force. Similarly, the Commission could not successfully resolve a dispute involving the VDC of Kuntaur

Jakaba and the Alkalo regarding a tractor offered to the community through the Programme for Accelerated Community Development (PACD) despite assurance of amicable resolution from the Office of the President. The Commission requested for update on the progress of the resolution of the dispute from the Office of the President but is yet to receive any response.

The following are recommendations to address the above-mentioned challenges.

- a. There is need for more collaboration and partnership between the Commission and duty bearers especially the Gambia Police Force and in line with our respective mandates,
- b. The Commission calls for speedy resolution of the Kuntaur-Jakaba tractor dispute in the best interests of the community and for peaceful co-existence.

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March 2023

