



# NHRC

January – June 2022

# NEWSLETTER

## The NHRC SDKJ Moot Court Competition Goes International

In realization of its mandate to promote and create awareness and respect for human rights through human rights education in The Gambia, the National Human Rights Commission (NHRC), in partnership with the Faculty of Law, University of The Gambia (UTG), will launch the 3rd edition of the Sir Dawda Kairaba Jawara (SDKJ) Human Rights Moot Court Competition. For the first time, the SDKJ Moot Court Competition will go international and will bring together human rights practitioners, law students, lawyers, parliamentarians, and students from the African continent around human rights themes. The participants will be drawn from eight (8) universities within Africa.

The theme for this year's competition is **State responsibility to guarantee the right to remedy, reparation, and accountability for atrocious crimes.**

Students will argue a hypothetical case which will focus on The Gambia's TRRC as a case study, to raise critical socio-legal and human rights issues regarding accountability for human rights abuses on the African continent.

The theme is in line with the Gambia Government's transitional justice agenda following the comprehensive transitional justice agenda which includes a security sector reform and the establishment of a permanent Human Rights Commission, A Truth Commission, and a Constitutional Review Commission.

The international SDKJ Moot Court Competition is implemented under NHRC's Strategic Objective 1 which seeks to 'promote and strengthen a culture of human rights and fundamental freedom'.

## Government Accepted more than 95 percent of the TRRC Recommendations

### # FromTruth2Justice

#### Restoring Democracy and Rule of Law

On 25th May 2022, the Government issued a White Paper highlighting its position on all 265 recommendations made by the TRRC. It accepted over 95 percent of the recommendations and outlined plans to develop an implementation strategy.

#### Highlights of the White paper include:

- The prosecution of adversely mentioned individuals including ex-President Jammeh, Sanna Sabally the former Vice Chairman of the APRC military Junta, former Chief of Defense Staff Babucar Jatta and former Vice Iastou Njie Saidy for gross human rights violations and crimes from 1994-2016.
- The establishment of a Peace and Reconciliation Commission to foster peace post-TRRC.
- The setting up of a Reparations Commission as a successor institution to the TRRC which will have an independent mandate to consider current victims reparations and evaluate new victims not identified by the TRRC.
- The renaming of the Arch 22 in the capital city to Never Again Memorial Arch to honour the victims of former President Jammeh.
- The adoption of a victim-centered approach and victim participation in the implementation of the TRRC recommendations.
- The establishment of a Special Prosecution Unit at the Ministry of Justice to investigate and prosecute cases from the TRRC.
- Close collaboration with the National Human Rights Commission (NHRC) to ensure review of the curriculum and regular training on human rights for The Gambia Armed Forces (GAF).

## The Role of NHRC

While the Government takes steps to implement the White Paper, NHRC is positioning itself as an independent institution and, as written in the report, the “natural body to monitor implementation of the TRRC recommendations to ensure that Never Again in the history of The Gambia will such human rights violations and abuses occur”.

To this effect, NHRC will establish a monitoring framework to systematically keep track of implementation, progress and lessons learned. It will also produce advisory notes, score cards and quarterly reports to document the process.

It is envisaged that the NHRC will play a pivotal role in archiving, and digitalization of documents, information and materials emanating from the TRRC to help in the preservation of the impartial historical record of human rights violation that the TRRC was mandated to establish.

Through the support of the French Embassy in Senegal, and other development partners, NHRC will work closely with stakeholders, including victim-led organisations, CSOs and relevant state institutions, to popularize the Government White Paper and ensure that Gambians own and memorialise the TRRC. NHRC will also initiate efforts to effectively carryout its monitoring and advocacy role and to sustain *#NeverAgain* in The Gambia.



# NHRC STATEMENT ON THE COMMEMORATION OF THE 2022 DAY OF THE AFRICAN CHILD

The National Human Rights Commission (NHRC) and the Thematic Committee on Vulnerable Groups join the rest of Africa to mark the Day of the African Child (DAC). The day presents an opportunity for Governments and stakeholders, including National Human Rights Institutions, to reflect on the challenges children face despite the laws and policies that have been established to promote, protect, and fulfil their rights. It is also a day to highlight progress and lessons learned over time.

The theme for this year's commemoration is **'Eliminating Harmful Practices Affecting Children: Progress on Policy and Practice since 2013'**. The Gambia registered significant milestones in the area of law and policy. The National Social Protection Policy and the National Child Protection Strategy both cover comprehensive critical issues such as child marriage, FGM, child labour. This is complemented by the establishment of a specialized ministry for children's protection, the Ministry of Gender, Children and Social Welfare, the Police Child Welfare Unit, the Social Welfare Hotline Service and community-based child protection systems.

However, as we reflect on this theme, it provides us the opportunity to evaluate the impact of the laws and policies we have in place to prohibit Female Genital Mutilation (FGM), child marriage, child trafficking, child labour, sexual abuse and exploitation, child sex tourism, and other harmful social and cultural practices, and how they affect children in our country.

Despite the existence of numerous domestic legislations and being party to child-focused regional and international legal instruments, children in The Gambia continue to be subjected to harmful practices which violate their human rights. FGM is still practised across the country. According to the Demographic and Health Survey (DHS) 2019/2020, up to 73 percent of women aged 15 to 49 years have undergone the practice. The Survey also showed that FGM is most prevalent in Basse, Upper River Region, at 95 percent among women aged 15–49 years. The trend does not seem to decline despite the ban in 2015 through the amendment of Sections

32A and 32B of the Women's Act (2015). This is also reflected in the Children's Act as amended in 2016 under Section 19, which states that ***"no child shall be subject to any social and cultural practice that affects the welfare, dignity, normal growth and development of the child and, in particular, these customs and practices that are: (a) prejudicial to the health and life of the child, such as female circumcision..."***

While 18 years has been set as the minimum legal age for marriage for both boys and girls through the amendment of the Children's Act in 2016, child marriage remains prevalent. According to the Multiple Indicator Cluster Survey (MICS 2018), 34.2 per cent of the women aged 20–49 years were married before the age of eighteen years.

Economic labour also affects children as early as 5-years of age with a higher prevalence among adolescence, 15–17 years (Child Protection Situation Analysis in The Gambia, 2022). When children are on the streets, especially during school hours, they miss out on their right to education. It also exposes them to other forms of vulnerability, especially sexual abuse, and exploitation. For many of these children, this increases the burden of poverty and exclusion that they may face in their communities.

The theme for this year's commemoration is therefore critical to the country context as it presents a unique opportunity to identify challenges in the implementation and enforcement of laws that protect children. It is also an opportunity for the Government to reinforce the bold steps that were taken in 2015 and 2016 to legally prohibit FGM and Child Marriage respectively.

"We have an obligation to end to all forms of harmful practices which deny too many children, especially girls, the right to life, protection from inhumane and degrading treatment, the rights to development and education, dignity, and best attainable standard of physical and mental health. It is the Government's primary duty to effectively enforce and implement all laws that protect children from these practices. Our children want us to now move beyond policy to action, to secure for them a better future", said Emmanuel Daniel Joof, Chairperson of the National Human Rights Commission.

On the Day of the African Child, we call on the Government and all actors to build on the gains achieved and to ensure full enforcement of the laws that protect children to secure their best interest.



## ENSURING ACCESS TO OUR SERVICES: INTRODUCING NHRC REGIONAL OFFICES

In line with Strategic Objective 2 of the Commission's Strategic Plan 2021-2025, which is to enable people whose rights have been violated to have access to appropriate redress, the National Human Rights Commission recently opened two (2) regional offices to fulfil its commitment to one of her core values Accessibility.

The offices are in Farafenni, North Bank Region, and Janjangbureh, Central River Region. The opening of these offices will greatly increase accessibility to the Commission and its services, especially for the marginalized groups and those living in rural areas. Additionally, the new offices would significantly contribute to the efforts of the annual mobile legal aid clinics which are designed to provide access to justice for vulnerable groups in our communities across the country.

Each of the said regional offices is led by a Regional Administrator, assisted by a Legal Officer and an Investigating Officer. They are equipped to provide the same services that are available at the national secretariat.



## NHRC MOBILE LEGAL AID CLINIC-A WAY OF EMPOWERING COMMUNITIES

The NHRCs' Mobile Legal Aid Clinics are part of the Commission's efforts to diversify its reach and ensure that every citizen and resident within The Gambia is empowered to have access to timely and sustainable justice.

The objectives of the NHRCs' Mobile Legal Aid Clinic, since its inception in 2021, are to sensitize communities on the work and functions of the Commission and other relevant Institutions charged with the responsibility to protect human rights, increase understanding of communities on basic human rights and strengthen access to justice, especially for the most vulnerable and marginalized groups in rural Gambia. From 14 to 18th March 2022, the Mobile Legal Aid Clinics Team visited the communities of Kunting, Kuntaur Fulla-Kunda, Jelani, Simbara Khai and Bati Ndar in Central River Region (CRR) North to listen to their concerns and render advice.

The Team received various concerns from the communities. They ranged from socio economic rights, namely access to farmlands, limited access to health care facilities, especially for pregnant and breastfeeding mothers, education, and access to clean drinking water, to legal issues relating to police bail, cattle theft and illegal charges levied for laissez passez on Gambian nationals when they commute from one village to another without IDs. Several women also raised concern about access to maternal health facilities, especially during and after delivery, as a major challenge. Women of Bati Ndar said they travel for more than 5 kilometers to Njau Health Centre to deliver their babies, sometimes using donkey carts to get to Njau. The Team made it clear that access to timely health care services, especially for pregnant mothers, is a basic human right and the lack of it can adversely affect the lives and health of both mother and baby.

Another concern raised was the lack of access to clean drinking water. This is also a fundamental human right that these communities do not enjoy in full. Without access to water, complainants stated that other basic rights such as rights to health and food are affected. Water is critical not only to the



attainment of food security, hygiene, and sanitation, but the overall health of our communities, especially children.

While this visit of the Mobile Legal Aid Clinics' Team mainly focused on basic social and economic rights that these communities are entitled to, they also brought to light deeper sociocultural challenges, especially those affecting girls such as child marriage.

The Commission, with the broad mandate to protect human rights, will continue to work in close partnership with the Ministry of Justice, Ministry of Gender, Children and Social Welfare, Ministry of Health, NCCE and NALA to ensure that these violations of human rights are addressed.



## About the NHRC

The National Human Rights Commission (NHRC) is a permanent and independent institution established by an Act of National Assembly in 2017 to protect and promote human rights in The Gambia.

### Vision

A Gambia where everyone enjoys their fundamental human rights and freedoms.

### Mission

To promote and protect the fundamental human rights and freedoms of everyone through law, policy, education and partnership.

### Mandate of the Commission

Within its broad mandate to promote and protect human rights, the Commission serves the general public by:

- monitoring, receiving, investigating, and considering complaints of human rights violations;
- recommending appropriate remedial action to the Government;
- seeking appropriate redress on behalf of victims;
- nurturing a culture of respect for human rights through public education and awareness creation; and
- supporting the Government in formulating appropriate policies and laws to guarantee human rights.

### Our Commissioners

The NHRC comprises five Commissioners with diverse backgrounds and expertise in human rights, constitutional and international law social justice and child protection.

### Strategies

The Commission facilitates its broad mandate and core functions through the following:

- Capacity Building and Awareness Creation; and
- Research/investigation and monitoring.

Capacity Building and Awareness Creation The NHRC seeks to boost human rights standards in The Gambia and to nurture a culture of respect for rights and freedoms guaranteed by the rule of law. This is done through capacity building and awareness creation of law enforcement, Civil Society Organisations (CSOs) and communities using:

- Online platforms/social media (twitter, Facebook and YouTube).
- Print and electronic media – TV, radio, newspaper, etc.
- Trainings, conferences, seminars, press briefings etc.
- Outreach programmes, social mobilization, etc.
- Publications of human rights guidelines and manuals, newsletters, and information, education and communication materials.

### Research/investigation and monitoring

To effectively address human rights violations and support complainants seeking clarifications and/or redress, the Commission has set up a Legal and Investigation Department which:

- conducts research to support advocacy work, programming, legal reform, policy development.
- supports the development of standard operating procedures and best practice guidelines on human rights.
- monitors observance and compliance of the State's obligations under national and international human rights law.
- conducts investigations into violations of human rights.
- supports in the review and/or formulation of policies or legislation that seek to improve human rights standards.

## Powers of the Commission

The Commission has similar powers, rights and privileges to the High Court at trial to:

- hear any complainant;
- summon witnesses to testify at hearings;
- examine witnesses on oath, affirmation or otherwise;
- compel the production of documents;
- issue an order or request to examine witnesses abroad; and
- enforce its decisions, including measures to protect the life and safety of an individual.

The Commission also has the right to access any government office, government facility, places of detention and non-classified information in government documents when investigating a human right violation.

Matters outside of the Commission's Mandate The Commission does not have the power to investigate:

- A complaint before any court;
- Represent a complainant in court since it has an oversight role;
- Any human rights violation which occurred before 24th January 2018, unless that violation is still continuing;
- A matter between the Government of The Gambia and another Government or International Organization; and
- A case where the President has or is exercising the prerogative of mercy, such as giving pardon to a convict.

## What can I Complain About?

You may present a complaint on any human right violation, be it civil, political, social, cultural, environmental, economic or group right. The complaint could be against a State institution, a private entity, a group of persons or an individual. Areas you can complain about include:

- *Domestic violence, sexual assault, abuse and/or exploitation*
- *Sexual harassment*
- *Degrading punishment*
- *Unlawful arrest, search and/or detention*

- *Discrimination*
- *Child and/or forced marriage*
- *Parental neglect*
- *Denial of access to one's child*
- *Denial of right to assembly and freedom of expression*
- *Prejudice*
- *Denial of right to freedom of worship and association*
- *Restriction on access to health care or education*
- *Bullying*
- *Slavery/servitude*
- *Torture*
- *Mistreatment*
- *Abduction*

## Who can Bring a Complaint before the Commission?

Any person or group of persons who feel that their human right has been violated can bring a complaint to the commission. You can also lodge a complaint on behalf of another who, due to age or special circumstances, cannot do so.

## Why should I Bring a Complaint to the Commission?

The NHRC is established to serve the people of The Gambia. Services are free for all, user friendly and accessible. Every person or organization is given an opportunity to present a case before the Commission through a fair and just process. Complainants, informants and witnesses are protected and supported under the principles of trust and confidentiality.

