



**NHRC COMPLEMENTARY REPORT ON  
THE COMBINED 4<sup>TH</sup> TO 7<sup>TH</sup> PERIODIC  
REPORTS SUBMITTED BY THE GAMBIA  
UNDER ART. 44 OF THE UNITED  
NATIONS CONVENTION ON THE RIGHTS  
OF THE CHILD**

**PREPARED BY:**

**NATIONAL HUMAN RIGHTS COMMISSION-THE GAMBIA**

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## ACRONYMS

<b>AKI</b>	Acute Kidney Injury
<b>ANEKED</b>	African Network against Extrajudicial Killing and Enforced Disappearances
<b>CPA</b>	Child Protection Alliance
<b>FGM</b>	Female Genital Mutilation
<b>GANHRI</b>	Global Alliance of National Human Rights Institutions
<b>GBV</b>	Gender-Based Violence
<b>MoGCSW</b>	Ministry of Gender Children and Social Welfare
<b>NGBV</b>	Network Against Gender-Based Violence
<b>NGO</b>	Non-Governmental Organisation
<b>NHRC</b>	National Human Rights Commission (Herein Referred to as “The Commission”)
<b>PWD</b>	Persons with Disabilities
<b>TRRC</b>	Truth, Reconciliation and Reparation Commission
<b>UN</b>	United Nations
<b>UNFPA</b>	United Nations Population Fund
<b>UNICEF</b>	United Nations Children’s Fund

## FOREWORD

The National Human Rights Commission (NHRC) of The Gambia is an independent 'A' status NHRI established in 2017 by an Act of the National Assembly in line with the UN Paris Principles. It promotes and protects human rights in The Gambia, and advises the Government on human rights matters.

This Complementary Report is the first submission of the NHRC to the Committee on the Rights of the Child in preparation for the upcoming dialogue with The Gambia on its combined 4<sup>th</sup> – 7<sup>th</sup> periodic report submitted under Article 44 of the United Nations Convention on the Rights of the Child. The Report provides an overview of the status of the rights of children since the State was last reviewed in 2015. In the intervening years, several achievements have been registered that seek to enhance the rights of children in the country, including the enactment of legislation prohibiting child marriage and betrothal, and Female Genital Mutilation and Cutting. However, more efforts need to be made, including effective enforcement and implementation of these legislation, for children to enjoy all the rights provided by the Convention. The country also continues to deal with the effects of the COVID-19 pandemic and the recent Acute Kidney Injury crisis, which emphasise the need for greater protection of children.

This Report provides the Committee with an overview of the status of the rights of children in The Gambia and aims to guide its upcoming Dialogue with the State.

## **ABOUT THE NATIONAL HUMAN RIGHTS COMMISSION (NHRC)**

The NHRC is a permanent, independent body established in December 2017 by an Act of the National Assembly of The Gambia with the mandate to promote and protect human rights and fundamental freedoms in The Gambia, investigate human rights violations and provide redress and remedial actions to victims. In 2023, it was accredited as an 'A' Status NHRI by the GANHRI.

## **INTRODUCTION**

The present submission is the first report of the NHRC to the Committee on the Rights of the Child. It focuses on the State's combined fourth to seventh periodic reports submitted by The Gambia in April 2024 under article 44 of the Convention on the Rights of the Child<sup>1</sup> and the 2015 Concluding Observations on the combined second and third periodic reports.<sup>2</sup>

## **METHODOLOGY AND PROCESS**

The NHRC, in June 2024, set up a 10-member working group comprising representatives from the Commission, the Government<sup>3</sup> and the Civil Society Dialogue Forum<sup>4</sup> to prepare this Report. This working group held three 'Writers Workshops' to develop the draft report which was eventually adopted as the Complementary Report of the Commission on the 31<sup>st</sup> of July 2024.

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<sup>1</sup>CRC/C/GMB/4-7

<sup>2</sup>CRC/C/GMB/CO/2-3

<sup>3</sup>Gambia Police Force and Ministries of Justice, Gender, Children and Social Welfare

<sup>4</sup>ChildFund The Gambia and Gambia Federation of the Disabled

## I. NEW DEVELOPMENTS

1. We commend the Government of The Gambia for taking a giant step in reviewing, amending or repealing provisions in the legislation that have been found to be discriminatory against women and girls in furtherance of The Gambia's international commitment and in line with the 1997 Constitution.<sup>5</sup> Other important legislation passed since the List of Issues Prior to submission of the combined 4th to 7th Periodic Report on the CRC was issued in February 2020 includes the Persons with Disabilities Act 2021, Labour Act 2023, the Prevention and Prohibition of Torture Act 2023 and The Gambia Anti-Corruption Act 2023. In 2023, the Child Labour Policy was developed and disseminated to all relevant stakeholders.

Other legislation such as the Children's Act of 2005 and the Trafficking in Persons Act 2007 have not undergone any major review since their enactment. The Government has, however, indicated that efforts are underway for their review.

The State ratified the CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol on the Involvement of Children in Armed Conflict in 2010 and 2019 respectively. However, the Government has not effectively popularised them and the OP on the Sale of Children is also not effectively implemented. No State Report has been submitted on the two Optional Protocols.

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<sup>5</sup>Sexual Offences (Amendment) Act, 2021; Domestic Violence (Amendment) Act 2021; Births, Deaths and Marriages Registration (Amendment) Act 2021 and Women's (Amendment) Act 2021

The State is further commended for launching The Recovery Focused National Development Plan (RF-NDP) 2023-2027 which aims, amongst other goals, to ‘consolidate gains in democratic governance, accelerate green economic and social transformation and build resilience to shocks and crises.” Under Pillar 5 of the RF-NDP which focuses on ‘Empowerment, Social Inclusion – Leaving No One Behind’, the Government indicates its strong commitment to address issues of inadequate empowerment, social exclusion, discrimination and stigmatization of women, children, persons with disabilities and older persons.

With support from UNFPA, the Government developed the National Policy for the Elimination of Female Genital Mutilation in The Gambia 2022-2026. However, the existence of this Policy is not well known by most of the key stakeholders and there is no evidence to show that the Ministry of Gender, Children and Social Welfare popularized it.

The Ministry of Gender, Children and Social Welfare has developed the Minimum Standards of Quality Care for Child-Care Centers and Private Residential Care Homes for Children in The Gambia. However, a monitoring visit to Child Care Centres, orphanages and Quranic Memorisation Centers undertaken by the Commission in 2023 has shown that the Minimum Standards have not been effectively popularized amongst its intended users nor have implementation been monitored.

In 2014, the Tourism Offences Act 2003 was amended to establish the Tourism Offences Tribunal. However, this Tribunal is not very functional, not widely known by the public and has had only one conviction since its establishment.<sup>6</sup>

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<sup>6</sup><https://sgbv-ihrda.uwazi.io/entity/dq08ggbnkf?page=12>

Implementation of concluding observations and timely reporting to treaty bodies remain a big challenge for the State. This is partly because there does not exist a National Mechanism for Reporting, Monitoring, Implementation and Follow-up (NMRIF) at the national level to support such a process.

The National Child Protection Strategy and Plan of Action 2016-2020 has not yet been reviewed and updated. Furthermore, there is no National Children's Policy, Child Participation Policy or National Plan of Action for the Protection of Children from Abuse, Exploitation and Violence.

Monitoring progress on the Sustainable Development Goals (SDGs) is challenging due to inadequate data available to measure SDG 16.<sup>7</sup> While the Government has submitted two Voluntary National Review (VNR) progress reports, in 2020 and 2022, it is difficult to indicate if the child rights-based approach is integrated in the implementation of SDG 2030. While the 2022 Voluntary National Review Report indicated that consultations were done with children and young people, it is difficult to indicate the level of child participation and whether children with disabilities and children out-of-school were adequately consulted.

The closure of schools at the peak of the COVID-19 pandemic greatly affected students with disabilities and students from disadvantaged backgrounds since they could not benefit equally from the classes that were broadcast via television or radio due to their different special circumstances. This coupled with rising poverty rates and the high cost of living crisis underscores the

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<sup>7</sup>The Recovery Focused National Development Plan (RF-NDP) 2023-2027

need for the State to increase resources allocated to ESCR to meet its minimum core obligations under the Covenant.

**We recommend that the State:**

1. Adequately and effectively implement the amendments of all the relevant legislation found to be discriminatory to women and girls.
2. Popularise the CRC Optional Protocol on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflict.
3. Submit its initial reports on the CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol on the Involvement of Children in Armed Conflict.
4. Provide adequate resources to the Ministry of Gender, Children and Social Welfare for the effective implementation of Pillar 5 of the RF-NDP.
5. Popularise and effectively implement the National Policy for the Elimination of Female Genital Mutilation in The Gambia 2022-2026.
6. Popularise and monitor regularly the application of minimum standards of quality care for Child-Care Centers and Private Residential Care Homes for Children in The Gambia.
7. Expedite the establishment of an NMRIF.
8. Conduct a comprehensive review of the Children's Act 2005 and the Trafficking in Persons Act 2007 and submit them to the National Assembly for enactment.
9. Develop and adopt the National Children's Policy, Child Participation Policy and National Plan of Action

for the Protection of Children from Abuse, Exploitation and Violence.

10. Ensure the active participation of children in the implementation of SDGs
11. Support child-led groups to develop and submit child-friendly Voluntary National Review Reports.
12. Ensure the effective functioning of the Tourism Offences Tribunal.
13. Allocate adequate resources to meet its minimum ESCR core obligations.

## **II. RIGHTS UNDER THE CONVENTION AND ITS OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

### **A. General Measures of Implementation (Arts. 4, 42 and 44 (6))**

#### **Legislation**

2. Apart from the Children's (Amendment) Act 2016, there has not been any amendment to the Children's Act 2005. Both the Children's (Amendment) Act 2016 and the Women's (Amendment) Act 2015 have been poorly enforced. While the Government and partners continue to engage in community awareness on the prohibition of child marriage and child betrothal, there has not been any conviction for the offence since 2016. Similarly, the only successful prosecution for the offence of female circumcision was in 2023.<sup>8</sup> Although child

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<sup>8</sup><https://standard.gm/3-women-sentenced-for-fgm-in-crr/>

marriage is no longer subject to the ‘personal law’ (Sharia) as per the Children’s (Amendment) Act 2016, Sharia law continues to govern marriage and inheritance as they apply to Muslims. This severely limits the impact of the Children’s (Amendment) Act 2016 regarding child marriage and inheritance for children born out of wedlock.

The State has enacted the following child-related legislation: Persons with Disabilities Act 2021, Labour Act 2023 and the Prevention and Prohibition of Torture Act 2023. However, none of these Acts were subjected to any child-right impact assessment.

### **We recommend that the State:**

1. Put in place all the necessary measures and mechanisms for the effective enforcement and implementation of the Children’s (Amendment) Act 2016 and the Women’s (Amendment) Act 2015.
2. Conduct a comprehensive review of the Children’s Act 2005 to cover all areas of the Convention, including limitations on the impact of Sharia law (personal law) on child issues such as child marriage and inheritance.
3. Put in place a child-right impact assessment framework or checklist for all new legislation affecting children and build the capacity of Parliamentarians and relevant stakeholders on its usage.

## **Comprehensive policy and strategy**

3. There is no comprehensive policy and strategy covering all areas of children's rights under the Convention complementing the National Social Protection Policy 2015-2025. The National Child Protection Strategy 2016-2020 has expired and is not yet revised or a new one developed. However, in 2023 the National Social Protection Policy 2015 – 2025 and its Implementation Plan were revised.<sup>9</sup> The revised Policy hopes to promote the progressive realization of human rights by adopting a rights-based approach to programming in the delivery of social protection services.<sup>10</sup> A National Social Protection Act 2023 has been passed by the National Assembly.

As indicated in the State's combined CRC 4th to 7th Periodic Report, the National Plan of Action against Sexual Abuse and Exploitation of Children 2011 – 2015 has not yet been reviewed and updated.

### **We recommend that the State:**

1. Take urgent action to revise the National Child Protection Strategy and/or develop a new one and ensure it covers all areas of children's rights under the CRC.
2. Develop a new National Plan of Action against Sexual Abuse and Exploitation of Children and provide adequate resources for its effective implementation.

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<sup>9</sup>[www.nsps.gm](http://www.nsps.gm)

<sup>10</sup>[www.nsps.gm](http://www.nsps.gm)

## **Coordination**

4. The Ministry of Gender, Children and Social Welfare continues to play the primary role in the coordination of children's issues and rights in the country. However, it does not have a clear mandate and sufficient authority in some aspects of the Convention. Trafficking in persons, including trafficking of children for sexual purposes, is mainly governed by the Trafficking in Persons Act 2007 which is administered by the National Agency Against Trafficking in Persons (NAATIP). Similarly, the sexual abuse and exploitation of children in travel and tourism is dealt with in the Tourism Offences Act 2003 which is being administered by the Ministry of Tourism. The Commissioner of Labour administers the Labour Act 2023 which has some provisions on the prohibition of child labour.

The Ministry of Gender, Children and Social Welfare is, however, confronted with technical, financial, capacity and human resources constraints which severely inhibit its coordination role at national, regional and local levels. Its regional offices have inadequate staff and are poorly resourced.

### **We recommend that the State:**

1. Brings all activities related to the implementation of children's rights in the Convention under the remit of the Ministry of Gender, Children and Social Welfare for effective cross-sectoral coordination.
2. Increase substantially the budgetary allocation of the Ministry of Gender, Children and Social Welfare to enable it to discharge its functions and coordinating role effectively.

3. Support the strengthening of the Regional Offices of the Ministry and ensure they are adequately staffed and resourced.

## **Allocation of resources**

5. Although the 2015 Concluding Observations recommended that the State implement a child rights approach in the development of the national budget and put in place a tracking system for the allocation and utilisation of resources for children in the budget, no such approach or budget tracking mechanism is in place. There are also no mechanisms at either the national or regional levels in place to ensure the effective participation of children in the budgeting process.

In the 2023 Transparency International's Corruption Perception Index, The Gambia was ranked 98 out of 180 countries. This was a slight improvement from 2022 when the country was ranked 110 out of 180 countries. The NHRC held the first-ever National Convergence on Corruption and Human Rights in December 2023.

We commend the Government for enacting the Gambia Anti-Corruption Act 2023.<sup>11</sup> However, this has not come into effect as the Commission for its implementation has not been established. In March 2023, a senior Government official was convicted of bribery<sup>12</sup> while the Ministry of Justice is also prosecuting cases related to official corruption.<sup>13</sup>

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<sup>11</sup><https://foroyaa.net/national-assembly-finally-passes-anti-corruption-bill-with-amendments/>

<sup>12</sup><https://standard.gm/ps-banja-gets-2-years-for-bribery/>

<sup>13</sup><https://www.moj.gm/news/91b77564-c8b4-11ed-8b02-025103a708b7> and <https://freedomnews-paper.gm/gambia-corruption-trial-of-health-ministry-officials-begins-with-testimony-from-police-investigators/> <https://www.moj.gm/news/91b77564-c8b4-11ed-8b02-025103a708b7> and <https://freedomnewspaper.gm/gambia-corruption-trial-of-health-ministry-officials-begins-with-testimony-from-police-investigators/>

## **We recommend that the State:**

1. Put in place a system for the objective assessment of the adequacy and effectiveness of public expenditure on children by specific Ministries.
2. Provide training to policy and decision-makers on budget tracking and participatory budgeting.
3. Put in place mechanisms at both national and Local Government levels for the active participation of children in the budgeting process.
4. Establish the Anti-Corruption Commission and ensure its independence.
5. Expedite the development of the 2023 Sustainable Financing Strategy for Social Protection, the Public Finance Strategy and Guidelines and the Integrated National Financing Framework Assessment that will translate the citizen budget into a child-friendly version.

## **Data collection**

**6.** There is no integrated system in place for examining the situation of children through a comprehensive data analysis in the country. The main sources of data about children in the country are the UNICEF Multiple Indicator Cluster Survey (MICS) and the Demographic and Health Survey (DHS) which are conducted every 5 years. However, in March 2023, the Ministry of Gender, Children and Social Welfare, with funding support from the UN, inaugurated a Gender Management Information System (GMIS) Centre to aid digital reporting and recording of Gender Based Violence (GBV) cases through an anonymous website and a 199 helpline.<sup>14</sup> The GMIS centre is,

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<sup>14</sup><https://gambia.unfpa.org/en/news/gims-center-model-safe-confidential-and-convenient-reporting-gbv-cases>

however, not well known amongst child protection actors or by the public.

There is no recent national data on key child protection concerns. No current studies have been conducted on children with disabilities, corporal punishment in schools and homes, child domestic violence, sexual harassment in the education setting, teenage pregnancy, street-connected children, and sexual abuse and exploitation of children.

### **We recommend that the State:**

1. Develop and implement an integrated system for comprehensive data collection and analysis on all areas of the Convention.
2. Popularise the GMIS centre and encourage reporting of GBV cases through its anonymous website and 199 helpline.
3. Conduct studies on all key child protection issues, including child disabilities, corporal punishment in schools and communities, sexual harassment in the education setting and sexual abuse and exploitation in travel and tourism and implement their recommendations.

### **Independent Monitoring**

7. We commend the Government for establishing the NHRC in 2017 and supporting its operations since 2019. The National Human Rights Commission Act 2017 is in full compliance with the Paris Principles. The Commission has primarily maintained its independence. In 2022, it was accredited an 'A' Status by the Global Alliance of National Human Rights Institutions (GANHRI).

## **We recommend that the State:**

1. Provide adequate budgetary allocation to the NHRC to popularize its mandate and human rights reporting procedures amongst children.

## **Dissemination, awareness-raising and training**

8. We commend the Ministries of Justice, Basic and Secondary Education and Gender, Children and Social Welfare for their tremendous efforts in raising awareness of the Children's Act 2005 across the country and on the radio and television. The Commission and NGOs such as CPA, NGBV, Child Fund The Gambia, ActionAid The Gambia, "Beakanyang" and Think Young Women have also conducted awareness-raising campaigns and programmes on the Act and other national and international legal instruments. The Gambia Police Child Welfare Unit has undergone several capacity-building trainings on Human Rights, Gender and Child Protection. However, there is no systematic dissemination of the Convention and accusations of children's rights being Eurocentric and against Islam and Gambian culture persist.<sup>15</sup> The recent pushback on the protection of girls from FGM/C is a case in point.<sup>16</sup> Religious leaders and scholars, hard-to-reach communities, children in Madrassas and Quranic Memorisation Schools and those out-of-school are also seldom included in these awareness-raising programmes.

## **We recommend that the State:**

1. Provide adequate financial and other support to

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<sup>15</sup><https://freedomnewspaper.gm/gambia-a-call-for-action-from-the-childrens-national-assembly/>

<sup>16</sup><https://africanfeminism.com/women-and-girls-rights-under-threat-as-the-gambia-debates-decriminalizing-female-genital-mutilation/>

the relevant Ministries and Agencies responsible for children's welfare and implementation of the Convention to embark on more systematic, sustained and widespread awareness-raising programmes and campaigns on children's rights.

2. Devise specific awareness-raising programmes and campaigns targeting religious leaders and schools, children in Madrassa, Quranic Memorisation Schools and out-of-school, and hard-to-reach communities.

## **Training**

9. We commend the Government for its efforts to enhance the capacity of child rights actors, panel members of the Children's Courts and other judicial officials, law enforcement officials, teachers, community leaders, social workers and health workers on the CRC. However, these trainings are not systematic and are mostly dependent on the availability of funding from UNICEF or other Donors. Neither the Convention nor the Children's Act 2005 has been institutionalized in the pre-service training of many State actors who work with children. They are also not mainstreamed in the curriculum of Gambia College School of Education, training schools for law enforcement agencies and basic education.

## **We recommend that the State:**

1. Ensure children's rights are institutionalised in the initial pre-service training of all professionals working with children.
2. Ensure children's rights are mainstreamed in the

curricula of the education system, including at the tertiary education level.

## **Child rights and the business sector**

**10.** As indicated in the State's periodic report, there have been very limited Government efforts in child rights and the business sector. However, the NHRC and CPA (a child-focused NGO) have been doing some activities in this area. CPA, in October 2020, launched a project on Child Rights and Business Principles (CRBP) targeting stakeholders in the tourism sector. The NHRC has also, since 2021, organised annual conferences on Business and Human Rights.<sup>17</sup> It also developed in 2020 a draft Advisory Note on Environmental Rights in The Gambia'. Nonetheless, sand mining companies continue to cause environmental and livelihood damage in the coastal areas and some rural communities.<sup>18</sup> Fishmeal factories and illegal fishing activities also continue to violate the human and economic rights of affected communities.<sup>19</sup>

The business sector is unaware of the existence of the Children's Rights and Business Principles and UN Guiding Principles on Business and Human Rights (UNGP). There is no National Action Plan on Business and Human Rights nor has a baseline assessment been conducted.

## **We recommend that the State:**

1. Popularise the CRBP and UNGP amongst the business sector and the population.

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<sup>17</sup><https://www.voicegambia.com/2021/11/09/nhrc-held-historic-event-on-business-and-human-rights-in-the-gambia/>

<sup>18</sup><https://standard.gm/energy-minister-shocked-by-environmental-damages-mining-caused/>

<sup>19</sup>Amnesty International "The Human Coast of Overfishing: How the overuse of fishing resources in Sanyang Threatens Human Rights" 2023

2. Ensure all businesses sign up to the Children's Rights and Business Principles and the UN Guiding Principles on Business and Human Rights
3. Collaborate with the NHRC to establish a National Working Group on Business and Human Rights to conduct a baseline assessment and develop a National Action Plan on Business and Children's Rights.
4. Enhance the legal and policy frameworks on business and human rights to ensure compliance with the UNGP and CRBP.

## **B. Definition of the Child (Art. 1)**

### **Definition of the child (art. 1 of the Convention)**

#### **Minimum age for marriage**

11. Commendable efforts continue to be made by the Ministry of Gender, Children and Social Welfare and the Ministry of Justice to raise awareness of the population on the Children's (Amendment) Act 2016 and the CRC, including amongst traditional and religious leaders and their communities. However, the Commission is concerned about recent utterances made by a prominent Islamic Scholar encouraging the practice of child marriage.<sup>20</sup>

While the prohibition of child marriage is no longer subjected to personal law (Sharia law), the Cadi Courts still exercise jurisdiction over marriage as it affects Muslims. The Cadi Courts or District Tribunals do not interpret customary or Sharia law according to the Children's Act 2005 and the Convention.

#### **We recommend that the State:**

1. Effectively enforce the Children's (Amendment) Act 2016.
2. Increase awareness of religious and traditional leaders and their commitment to the CRC and the Children's (Amendment) Act 2016.
3. Develop measures for the Cadi Courts and District Tribunals to ensure they interpret customary and

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<sup>20</sup><https://standard.gm/imam-fatty-calls-for-massive-mobilisation-to-restore-fgm/>

Sharia laws according to the Children's Act 2005 and the CRC.

4. Strengthen the capacities of community structures like the Village Development Committee (VDC) and the women Kafos to raise awareness of the effects of child marriage.

## **C. General Principles (Arts. 2, 3, 6 And 12)**

### **Non-discrimination**

**12.** The Government is commended for amending discriminatory provisions in key legislation such as the Women's Act 2010, Domestic Violence Act 2013, Sexual Offences Act 2013 and the Matrimonial Causes Act to bring them in line with the country's international commitments to gender equality and equity, and for enacting the Persons with Disabilities Act 2021. However, some discriminatory practices persist. Children born out of wedlock cannot inherit from the estates of their Muslim fathers as inheritance is governed by the personal law (Sharia law) of Muslims. Children born to non-Gambian parents cannot acquire citizenship unless one of the parents naturalizes.<sup>21</sup> Children with disabilities continue to face stigmatization and discrimination and limited access to education, health services, public transportation and information. A 2022 study on Caste and Descent-based discrimination conducted by the Commission<sup>22</sup> highlighted that child in some of these communities face discrimination from their peers in school. While the Commission is aware of the Government's stance against same-sex marriage, it urges the

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<sup>21</sup>Section 9 of the 1997 Constitution

<sup>22</sup>[study on caste and descent - Search Results - NHRC \(gm-nhrc.org\)](#)

Government to protect lesbian, gay, bisexual, transgender, and intersex (LGBTI) children from discrimination and public hostility.

There is no evidence to show that the State has undertaken follow-up measures or programmes in relation to the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the 2009 outcome document adopted at the 2009 Durban Review Conference.

### **We recommend that the State:**

1. Intensify efforts to protect children with disabilities from discrimination and stigmatization in homes, schools and communities.
2. Amend the Constitution so that children born to non-Gambian parents can acquire citizenship.
3. Protect lesbian, gay, bisexual, transgender, and intersex (LGBTI) children against all forms of violence and public reprisal, including de facto discrimination
4. Adopt measures and implement programmes in relation to the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the 2009 outcome document adopted at the 2009 Durban Review Conference.

### **Best interests of the child**

**13.** The Children's Act 2005 requires the best interest of the child to be the guiding principle when any issue concerning a child is being determined. The Children's Courts are guided by the 'best interests of the child' principle in judicial procedures

involving children. However, in the absence of a national guideline and standards in determining the best interest of the child in all areas of the Convention, it is difficult to indicate how the 'best interest of the child' is considered in legislative and administrative proceedings and decisions or policies, programmes and projects concerning children. Often children are not even consulted in the development of these policies and programmes or their evaluation.

### **We recommend that the State:**

1. Develop national guidelines and standards to guide the determination of the 'Best Interest of the Child' principle in the implementation of all aspects of the Convention.
2. Conduct training for policy and decision-makers on the 'Best Interests of the Child' principles and the guidelines to be developed.

### **Respect for the views of the child**

**14.** We commend the Ministry of Gender, Children and Social Welfare, National Youth Council and Civil Society Organisations for promoting the participation of children in national development issues, including the active functioning and sessions of the Children National Assembly of the Gambia (CNAG). However, except for funding from UNICEF, there is no specific national budgetary allocation for the functioning of CNAG.

The Children's Court Rule 2010 establishes the procedure for civil and criminal proceedings in the Children's Court. However, the guidelines and procedures adopted by the judicial and administrative authorities to guarantee children's meaningful

participation in all civil, criminal or other proceedings are not widely known by legal practitioners and law enforcement officers. There also does not exist a national Child Participation Policy or Strategy to enhance child participation.

While children were involved in the national consultations conducted by the Truth Reconciliation and Repatriation Commission (TRRC) and the Constitutional Review Commission (CRC), there is no national strategy to facilitate the participation of children in the transitional justice processes. It is mainly victim-focused organizations that are actively involving children in transitional justice processes.

**We recommend that the State:**

1. Provide adequate financial resources to the Ministry of Gender, Children and Social Welfare and the National Youth Council to raise awareness on child participation at family, school and community levels.
2. Create a budget line under the budget of the Ministry of Gender, Children and Social Welfare for the active functioning of the Children's Parliament.
3. Amend the existing rules of procedures to facilitate and guarantee the right of the child to be heard in all civil, criminal or other proceedings affecting him or her.
4. Develop a National Child Participation Policy and Strategy to enhance the meaningful participation of children in national development initiatives and discourses.
5. Develop a strategy for the active and meaningful participation of children in the transitional justice processes.

## **D. Civil Rights and Freedoms (Arts. 7, 8 AND 13–17)**

### **Birth registration, nationality and statelessness**

15. We commend the Government, with support from the World Bank, for having in place an electronic Civil Registration and Vital Statistics (eCRVS) system and a Standard Operational Procedure (SOP) to ensure universal registration of births, deaths and marriages. With funding from UNICEF, the Civil Registration and Vital Statistics Directorate and NGOs such as CPA have engaged in birth registration campaigns in the country. In 2020, the Births, Deaths and Marriages Registration Act 1990 was amended to obligate the Registrar or Deputy Registrar of Birth to register the birth of the child born out of wedlock at the request of the mother and with her particulars only. Children can also, by and large, access free basic education and health and other services regardless of their nationality.

The efforts at universal birth registration notwithstanding, births of children are not automatically registered upon birth at a health centre. Furthermore, no legislative, administrative or other measures have been taken regarding the ratified 1954 Convention on Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness.

### **We recommend that the State:**

1. Mainstream birth registration into the health care system to ensure automatic registration of children upon birth in a public health centre or hospital.
2. Conduct a comprehensive review and amendment

of the Births, Deaths and Marriages Registration Act 1990.

3. Take measures to effectively implement the provisions of the 1954 Convention on Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness.
4. To ensure that all national documents are synchronized for ease of reference when it comes to accessing national data

## **Freedom of expression**

**16.** We commend the Government for the enactment of the Access to Information Act 2021. There exists a Criminal Offences Bill 2022 and a Cyber Crime Bill 2023 which are before the National Assembly for scrutiny but are not yet passed. The Information and Communications Act 2009 is yet to be reviewed. The Gambia's 2023 ranking on the World Press Freedom Index was 5th in Africa and 46th in the world. There were five cases of arrests of journalists, political figures and human rights activists reported between 1st August and 15th October 2023.<sup>23</sup> Some of these journalists and human rights defenders claimed that they were tortured or held incommunicado and beyond the statutory 72-hour detention limit.<sup>24</sup> However, they have not been prosecuted yet.

Contrary to Section 25 of the 1997 Constitution which guarantees the right to Freedom of Expression and recommendations from the 2019 Universal Periodic Review, people continue to be charged with seditious intention and uttering seditious words

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<sup>23</sup>NHRC 2023 State of Human Rights Report, Pages 22, 23 and 27

<sup>24</sup>NHRC 2023 State of Human Rights Report

prohibited under Sections 51-54 of the Criminal Code.<sup>25</sup>

### **We recommend that the State:**

1. Follow due process in the arrests and detention of journalists and human rights defenders.
2. Take steps to repeal sections 51 and 52 of the Criminal Code which make sedition and defamation criminal offences.
3. Expedite the enactment of the Criminal Offences Bill 2022 which decriminalises sedition.

### **Access to appropriate information and right to privacy**

**16.** As indicated in the State's Responses, there are no measures in place for the effective monitoring of the information accessible to children, including in the Internet media. There is no regulation regarding the airing of television programmes, especially those inappropriate for children, although the television stations ensure inappropriate content is not aired.

The Persons with Disabilities Act 2023 guarantees persons with disabilities access to disability-friendly information, including sign language interpretation, brailing and synthesizing (audio) of public information and sign language inset or subtitles in major newscast programmes.<sup>26</sup> However, access to public information for persons with disabilities remains very limited.

The Education Policy 2016-2030 plans to revitalize and strengthen the mobile library services, ensure all school libraries

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<sup>25</sup><https://gambiana.com/police-charge-ebrima-dibba-and-bakary-sillah-with-sedition/>

<sup>26</sup>Section 46 of Persons with Disabilities Act 2021

have access and be connected to the internet and staffed with qualified librarians/teachers. However, school libraries are poorly resourced<sup>27</sup> while public libraries are non-existent in both the rural and urban areas.

There are no measures in place to protect the privacy of children in the media, including social media. The Children's Act 2005 only prohibits the publication of the identity of a child in a matter that is before the Children's Court without the court's permission. Nonetheless, there is currently a Cyber Crimes Bill 2023 at the National Assembly that protects against cyberbullying, computer-related offences and child pornography.

### **We recommend that the State:**

1. Put in place measures to effectively monitor information accessible to children in the media, including on television at prime time, social media and in cyberspace or online.
2. Ensure all television stations provide sign language interpretations when airing news or other national programmes, including proceedings of the National Assembly.
3. Establish, in partnership with the Gambia National Library Service Association (GNLSA), functional school and community libraries in both rural and urban areas.

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<sup>27</sup>Education Sector Policy 2016-2030

## **E. Violence against children (Arts. 19, 24 (3), 28 (2), 34, 37 (A) and 39)**

### **Freedom of the child from all forms of violence**

17. No current and specific national studies have been undertaken by the State on various violence against children, including child domestic violence. Similarly, there is no comprehensive national policy or strategy for prevention and intervention in cases of violence, no available public information on the outcome of investigations of cases of violence against children and remedies provided, and the availability of limited psychosocial and psychological services to child victims.

The National Agency for Legal Aid (NALA) provides legal representation to children charged with an offence or appeal before the Court of Appeal. However, NALA is constrained by inadequate staff and resources to cater for all the needs of children in the administration of justice.

While some childcare residential facilities may have their own reporting or complaint mechanism in place, there is no State-developed and administered child-friendly and confidential complaint mechanism for residential care facilities, State-owned mental health institutions and the foster care system.

As recommended in the 2015 Concluding Observations, there is no evidence that the State has initiated any cooperation with the Special Representative of the Secretary-General on Violence against Children.

## **We recommend that the State:**

1. Provide adequate budgetary allocation to the Ministry of Gender, Children and Social Welfare for child protection service provision, especially psychosocial and psychological services
2. Put in place a child-friendly and confidential complaint mechanism for residential care facilities, mental health institutions and foster care system and ensure its effective monitoring
3. Conduct a comprehensive study on all aspects of Violence Against Children and develop a comprehensive national strategy and policy to prevent and address all forms of violence against children.
4. Initiate cooperation with the Special Representative of the Secretary-General on Violence against Children.
5. Strengthen the NALA to enable it to provide legal representation to children throughout the criminal justice system.

## **Corporal Punishment**

**18.** State and non-state actors have been involved in the promotion of positive discipline in the communities and school setting. However, corporal punishment is still not expressly prohibited in all settings. The Children's Act 2005 only unambiguously prohibits the Children's Court from making an order subjecting a child to corporal punishment.<sup>28</sup> The practice is not expressly prohibited in homes, schools, care institutions and workplaces. Parents are only required to "ensure that

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<sup>28</sup>Sec. 220(9) of the Children's Act 2005

domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child”<sup>29</sup> while a person who has custody of a child is only supposed to protect him or her from discrimination, violence, abuse and neglect.<sup>30</sup> In the school setting, the Education Act condones corporal punishment as it only restricts the procedures and administration of the punishment by or in the presence of the head teacher and logs the punishment in a designated book.<sup>31</sup> There are no specific State programmes to promote positive discipline amongst communities and child protection actors.

### **We recommend that the State:**

1. Amends the Children’s Act 2005 and prohibits corporal punishment against children in all settings.
2. Repeal the education regulations which permit corporal punishment in schools.
3. Develops a comprehensive, adequately resourced, national strategy or national action plan to promote positive discipline and participatory forms of child-rearing, including through awareness raising and capacity building of relevant actors.
4. Incorporates positive methods of disciplining students and alternatives to corporal punishment in the curriculum of Gambia College Teacher Training School.

## **Sexual abuse and exploitation**

**19.** The staff of the Sexual and Gender-Based Violence Unit at the Ministry of Justice are State Counsels. The Unit calls upon

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<sup>29</sup>Sec. 22 of the Children’s Act 2005

<sup>30</sup>Sec. 21 of the Children’s Act 2003

<sup>31</sup>Sec. 15 of the Education Regulations of Education Act Cap. 46 Law of The Gambia

officers from the Police and Ministry of Gender, Children and Social Welfare when there is a Gender Based Violence case to address. The existence of the Unit is not well known by the public, including children, nor is it formalised with a budgetary allocation.

The Children's Act 2005 makes it mandatory for every member of the public with evidence that a child's right is being infringed to report the case to the nearest office of the Department of Social Welfare.<sup>32</sup> However, reporting of child abuse cases, especially sexual abuse and exploitation of children, remains poor. The toll-free Helplines (1313 and 199) still require much public popularization.

There is no measure in place to protect children from online sexual exploitation and abuse, including on online dating websites. However, there exists a Cyber Crimes Bill 2023 which prohibits cyberbullying, computer-related offences and child pornography.

While the Commission commends the State for its continued efforts in putting in place these policies, programs and other frameworks to address child sexual abuse and exploitation, it wishes to highlight that there remain significant gaps in addressing the issue, especially in child sex tourism. The Commission is particularly concerned about the findings of an investigative report which highlighted a series of offences, and staggering gaps in the prosecution and conviction of the offender.<sup>33</sup>

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<sup>32</sup>Section 67 of the Children's Act 2005

<sup>33</sup>[Corruption, Coercion and Cover-up: How Roy escapes justice for alleged sex abuse of Teneng and Jongfelo – Malagen](#)

## **We recommend that the State:**

1. Provide adequate human, budgetary and other support to the Sexual and Gender-Based Violence Unit of the Ministry of Justice and for its public popularization.
2. Amend Section 67 of the Children's Act 2005 and make reporting exclusively mandatory for teachers, social workers, police officers and medical practitioners.
3. Support the effective functioning of the 1313 and 199 helplines.
4. Ensure the Ministry of Tourism and the Gambia Tourism Board put in place a confidential complaint mechanism for reporting child sexual exploitation in travel and tourism.
5. Ensure the Ministry of Tourism puts in place a timely response mechanism for the victims.
6. Enact legislation for the protection of children from online sexual abuse and exploitation, including online dating websites.
7. Conduct a comprehensive study on online child abuse and exploitation.

## **Harmful practices**

**20.** The Women's (Amendment) Act 2015 continues to prohibit female circumcision in the country although it remains poorly implemented or enforced. Only one case was successfully prosecuted under the Act.<sup>34</sup> There now exists a National Policy for the Elimination of Female Genital Mutilation in The Gambia 2022-2026 although its existence is not widely known.

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<sup>34</sup><https://standard.gm/3-women-sentenced-for-fgm-in-crr/>

The results of the National Plan of Action for the Accelerated Abandonment of Female Genital Mutilation 2013-2017 are not known as no evaluation of its impact has been undertaken. There is currently a new National Plan of Action to replace the former.

Following the first-ever conviction on FGM in August 2023, a private member's Bill was introduced to the Parliament seeking to repeal the Women's (Amendment) Act 2015. Subsequently, the Bill was rejected by the Parliament.<sup>35</sup>

### **We recommend that the State:**

1. Takes all necessary measures to effectively enforce the Women's (Amendment) Act 2015.
2. Take immediate steps to fully implement all recommendations contained in the Concluding Observations on The Gambia's 6th CEDAW Periodic Report issued in October 2022 on FGM/C as well as the November 2019 Universal Periodic Review Report.
3. Place before the National Assembly a comprehensive Bill which adequately addresses all the aspects of FGM/C, including protection for victims and provision of psychosocial and medical support.

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<sup>35</sup>[Fôni NAM Introduces Bill To Repeal Anti-FGM Law – The Standard Newspaper | Gambia](#)

## **F. Family Environment and Alternative Care (Arts. 5, 9–11, 18 (1)-(2), 20, 21, 25 and 27 (4))**

### **Family environment**

**21.** We commend the Government for the steps taken to train parents and caregivers in positive parenting and for the establishment of a social protection system, especially for lactating and pregnant mothers, and vulnerable families.

The concurrent jurisdiction of the Children's Court and the Cadi Courts in the areas of maintenance, custody and inheritance as they affect children has not been resolved. Each exercises its jurisdiction on these matters.

Despite the recommendation in the last Concluding Observations, the State has not yet ratified the following instruments: the Convention on the Recognition and Enforcement of Decisions relating to the Maintenance Obligations; the Convention on the Law Applicable to Maintenance Obligations; and the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children.

### **We recommend that the State:**

1. Intensify support for the training of more parents and caregivers on positive parenting.
2. Urgently addresses the concurrent jurisdiction of the Children's Court and the Cadi Court in areas of

maintenance, custody and inheritance as they affect children.

3. Ratify the Convention on the Recognition and Enforcement of Decisions relating to the Maintenance Obligations; the Convention on the Law Applicable to Maintenance Obligations; and the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children.

## **Children deprived of a family environment**

**22.** Institutionalisation of children deprived of family environment still takes place at the main SOS Children's Villages -The Gambia and temporary placement at the State's run Shelter for Children in Bakoteh. However, SOS Children's Villages also implements family strengthening programmes and alternative care which aims to avoid the institutionalisation of some vulnerable children.

The Ministry of Gender has developed the Minimum Standards for Quality Care for Child Care Centres and Private Residential Care Homes for Children in The Gambia. However, these Minimum Standards are not regularly monitored by the Ministry and have not been widely popularised amongst its primary target users. Despite the recommendations in the last Concluding Observations, the State has not established independent complaint and monitoring mechanisms for alternative care centres.

### **We recommend that the State:**

1. Put in place a strategy for phasing out the institutionalization of children.

2. Popularise and regularly monitor the Minimum Standards for Quality Care for Child Care Centres and Private Residential Care Homes for Children in The Gambia.
3. Strengthen the alternative care system in the country.

## **Adoption**

**23.** The Government is commended for having in place an Adoption and Foster Care Register for formal adoption and foster care. However, as indicated in the State's Responses, informal adoption within the extended family is not monitored for potential abuses of the children.

Despite the recommendation in the 2015 Concluding Observations, the State has not yet ratified the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption.

### **We recommend that the State:**

1. Encourages extended family members who want to adopt to make it official through the Children's Courts and in accordance with the Children's Act 2005.
2. Conduct a study on the extent of informal adoption within the extended family to understand issues affecting the children.
3. Expedite the development of a register and monitoring framework to monitor potential abuses that children in informal adoption could face.
4. Effectively and regularly monitor the situation of children in formal adoption, especially intercountry adoption.

5. Ratifies the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption.

## **G. Children with Disabilities (Art. 23)**

**24.** The State is commended for enacting the Persons with Disabilities Act 2021. It has also developed the Persons with Disabilities Policy 2022-2031, Strategic Work Plan 2022-2026, and established the National Advisory Council for Persons with Disabilities to support the implementation of the Act.

The National Council for Civic Education in partnership with the Gambia Federation of the Disabled, with funding from UNICEF, has conducted nationwide popularization of the Act. The NHRC has also organised forums on the Act, including a National Conference. The Ministry of Basic and Secondary Education has turned the Special Needs Education Unit into the Early Child and Inclusive Education Directorate to give greater importance to the education and inclusion of children with disabilities. However, children with disabilities and children with albinism continue to suffer multiple forms of discrimination in their homes, communities and schools, and face challenges in accessing social services and facilities such as education, health care, transportation and public buildings.

### **We recommend that the State:**

1. Intensify the popularization of the Persons with Disabilities Act 2021 in the communities and schools.
2. Include children with disabilities and their families as primary targets in the Social Protection Programme.

3. Put in place specialized health and rehabilitation services for children with disabilities, including children with albinism.
4. Support the special needs schools with adequate resources to be able to effectively cater for the educational needs of children with disabilities.
5. Ensure the Department of Physical Planning puts in place a requirement for all public buildings to be accessible and disability friendly from the planning stage.
6. Raise awareness of parents of children with disabilities about children's right to education.

## **H. Basic Health and Welfare (Arts. 6, 18 (3), 24, 26, 27 (1)– (3) and 33)**

### **Health and health services**

**25.** We commend the Government for the efforts taken to reduce infant and child mortality, ensure equitable access to health care, promote exclusive breastfeeding and reduce malnutrition, stunting and wasting. It is also commended for developing the National Health Policy 2022-20230, enacting the National Health Insurance Act 2019 and establishing the National Health Insurance Authority. However, the National Health Insurance Scheme has not taken off nationally. The Existence of the National Health Insurance Authority is also not widely known.

The child's right to the best attainable standard of health was severely threatened in the Gambia with the outbreak of Acute Kidney Injury (AKI) in August 2022 which eventually claimed

the lives of about 70 children.<sup>36</sup> Consequently, the President set up a Task Force to investigate the deaths of the children and a report was submitted to him in July 2023 with a series of recommendations, including prosecution, revocation of the license of the pharmaceutical company involved, and reviewing the laws and regulations governing the issuance of pharmaceutical import licenses.<sup>37</sup>

### **We recommend that the State:**

1. Provide adequate human, financial and technical resources to the National Health Insurance Authority for the effective implementation of the National Health Insurance Act 2019.
2. Effectively implement the National Health Policy 2022-2030.
3. Put in place effective measures to combat child malnutrition, maternal anaemia, uptake of modern methods of family planning, institutional delivery, and Post-Natal Care.
4. Effectively implement all the recommendations of the Task Force established by the President to investigate the AKI outbreak.

### **Adolescent health and HIV/AIDS**

**26.** We commend the Government for its efforts in promoting Comprehensive Health Education through the “Strengthening Access to Quality Comprehensive Health Education for in-and-out of School Adolescents in The Gambia”, combating HIV/AIDS, and developing The Gambia Health Policy 2020-2030.

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<sup>36</sup>NHRC 2023 State of Human Rights Report, Page 39

<sup>37</sup>NHRC 2023 State of Human Rights Report, Page 39

While abortion remains mainly criminalized in the Criminal Code, medicalized abortion is permitted under Section 30(1) of the Women's Act 2010 which covers a situation where the continued pregnancy endangers the life of the mother or the fetus. However, rape and incest are not covered by Section 30(1), but provided for under the Criminal Offences Bill currently before parliament.

### **We recommend that the State:**

1. Integrate life skills education and the Comprehensive Health Education initiative in the education curriculum.
2. Put in place measures for youth to have access to youth-friendly reproductive health services, especially through the building of youth-friendly reproductive health service facilities.
3. Amend Section 30(1) of the Women's Act 2010 to include rape and incest as grounds for permitting abortion and/or maintain the proposed provisions in the Criminal Offenses Bill.
4. Conducts a comprehensive study on adolescent health to serve as a catalyst for increment in resource allocation for adolescent health and a comprehensive HIV/AIDS program for adolescents.

### **Environmental Health**

**27.** We commend the Government for the development of the Water, Sanitation and Hygiene (WaSH) Policy and Strategic Plan in 2020 and the establishment of a technical working group to coordinate interventions in WaSH. It has also established, with support from UNICEF, WaSH facilities in schools to address issues of open defecation and strengthen personal hygiene in

schools. However, access to potable water remains a challenge for some communities in rural Gambia.

We recommend that the State:

1. Stringently enforce the Anti-Littering Act 2007 and the Tobacco Control Act 2016.
2. Take all necessary measures to provide potable water to communities in hard-to-reach areas of the country.

## **I. Education, Leisure, And Cultural Activities (Arts. 28–31)**

### **Education, including vocational training and guidance**

**28.** We commend the Government for improving access to education, including in the rural areas. The National Development Plan 2023-2027 also promises “Equitable Access to Quality and Relevant Education for all”. However, concerns remain about the quality of education, especially regarding the recent performance of children in the regional examinations that the West Africa Examination Council supervises.<sup>38</sup> Teacher attrition and motivation are also factors affecting quality education. It is also estimated that in 2023, more than 46,000 children were out of school, and the primary school completion rate is at 88 per cent, upper basic school 65 per cent and senior secondary school 47 per cent.<sup>39</sup>

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<sup>38</sup><https://thepoint.gm/africa/gambia/headlines/education-ps-we-want-to-restore-quality-education-in-gambia>

<sup>39</sup> <https://www.unicef.org/gambia/press-releases/it-has-become-more-urgent-scale-school-enrolment-and-quality-education-gambia> accessed on 18 June, 2024

Access to inclusive education and early childhood education remains a huge challenge for children with disabilities and children with albinism. The four schools that provide education for children with disabilities, mainly located in the urban area, face severe resource challenges, including financial, technical and human resources.

The introduction of the School Improvement Grant to public schools has lessened the financial burden on parents. However, hidden educational costs remain, with parents paying for items such as school uniforms, stationery and textbooks.

### **We recommend that the State:**

1. Find out the factors that inhibit quality education and urgently address them.
2. Put in place measures to ensure children with disabilities and children with albinism, particularly those in rural areas, have access to inclusive education and early childhood education.
3. Fulfil its obligation of allocating not less than 10% of all educational expenditure to the educational needs of PWDs at all levels.<sup>40</sup>
4. Take effective measures to eliminate the hidden educational costs in the school system.
5. Take measures to expedite the mainstreaming of children with disabilities in the education system.

### **Rest, leisure, recreation, and cultural and artistic activities**

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<sup>40</sup>Section 33 (6) of The Persons with Disabilities Act 2021

**29.** There is no national policy or strategy in place to promote children's right to rest, leisure, recreation and cultural and artistic activities in schools and daycare centres. Local Government Authorities also do not have such a policy or strategy although one of their responsibilities is to establish recreational facilities for children. The Education Policy 2016-2030 puts more emphasis on the development of 'sports education' and the provision of appropriate sporting infrastructure in every school.

**We recommend that the State:**

1. Develop a national policy to promote children's right to leisure, play and recreation.
2. Encourage Local Government Authorities to establish play and recreational facilities for children.
3. Set up recreational and leisure facilities in both the urban and rural areas.

**J. Special Protection Measures (Arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d), and 38–40)**

**Economic exploitation, including child labour**

**30.** Both the Children's Act 2005 and the Labour Act 2023 criminalise certain forms of child labour, including in family businesses and the informal sector. However, these provisions are not effectively enforced. Children continue to work in family businesses and the informal sector. There is no national Child Labour Policy or strategy, and no national research or study has been conducted on child labour in the country. ILO Convention 189 concerning Decent Work for Domestic Workers has not been ratified by the State.

## **We recommend that the State:**

1. Effectively enforce the provisions of the Children's Act 2005 and the Labour Act 2023 that prohibit child labour.
2. Conduct a national study on Child Labour in the country.
3. Develop a Child Labour Policy and effectively implement it.
4. Provide the Department of Labour with adequate human, technical and financial resources to effectively monitor workplaces and other areas where children may be employed.

## **Children in street situations**

**31.** The last national study on street children was conducted in 1992. Thus, it is difficult to know the prevalence of street children in the country. However, child beggars, including Almudo children, can be found in the Greater Banjul Area and most of the towns in rural Gambia. Furthermore, there is no Policy or national strategy to address issues related to children in street situations.

## **We recommend that the State:**

1. Undertake a national study to understand the causes and scope of children in street situations.
2. Develop and implement a national policy and strategy on children in street situations and other preventive programmes

## **Sale, trafficking and abduction**

**32.** We commend the Government for its great efforts in combating trafficking in persons, including child trafficking. In 2023, the Government investigated 8 suspects and prosecuted 6 alleged traffickers.<sup>41</sup> Convicted traffickers have also been given the maximum sentences as per the Trafficking in Persons Act.<sup>42</sup> Efforts were also made to identify more victims and increase the capacity of officials.<sup>43</sup>

However, since 2021, The Gambia has remained on Tier 2 of the US Department of State Trafficking in Persons Report.<sup>44</sup> The State was on the Tier 2 Watch List in 2020.<sup>45</sup> The US Department of State Trafficking in Persons Report 2023 also 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.<sup>46</sup>

While it is effectively implementing its mandate, the National Agency Against Trafficking In Persons (NAATIP) is also beset with many challenges such as limited human, technical and financial resources. The Trafficking in Persons Act 2007 has also not undergone any comprehensive review. There are no systematic recovery, rehabilitation and reintegration programmes for child victims of trafficking, and no national study has been conducted on human and child trafficking in the country.

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<sup>41</sup>NHRC State of Human Rights Report 2023, Page 44

<sup>42</sup>NHRC State of Human Rights Report 2023, Page 44

<sup>43</sup>US Department of State Trafficking in Persons Reports 2021, 2022, 2023

<sup>44</sup>US Department of State Trafficking in Persons Reports 2021, 2022, 2023

<sup>45</sup>US Department of State Trafficking in Persons Report 2020

<sup>46</sup>NHRC State of Human Rights Report 2023, Page 44

## **We recommend that the State:**

1. Conduct a national study on trafficking in persons in The Gambia
2. Provide adequate budgetary allocation to NAATIP for effective implementation of the Trafficking in Persons Act 2007 and capacity building for its staff and other key actors.
3. Enact a new Trafficking in Persons Act in line with the Palermo Protocol and international best practices in the prevention and prohibition of trafficking in persons.
4. Establish shelters specifically for the care of victims of trafficking, including child victims.

## **Administration of Child Justice**

**33.** Children's Courts are established in only 4 of the 7 Administrative Regions of the country, namely in Kanifing, Brikama, Mansa Konko and Basse.

The minimum age of criminal responsibility is still 12 years. The 'minimum age for deprivation of liberty' has not been defined and section 213 of the Children's Act 2005 has not been amended. The Commission is concerned that little privacy is afforded to children charged with an adult who is tried in an adult court.

The Government is commended for its efforts in building the capacity of law enforcers, social workers, judicial officials, and panel members of the Children's Courts, and for building four modern Police Stations with separate detention facilities for children and women. However, many of the Police Stations do not have separate facilities for women and children – in some instances, children are kept behind the station counters.

While Section 220 (1) of the Children's Act 2005 provides for non-judicial measures such as diversion, probation, community service, committal to a residential care institution, group counselling, and mediation, they are rarely applied by the Courts.

Rehabilitation and reintegration programmes for children in the child justice system are mainly non-existent.

**We recommend that the State:**

1. Establishes fully functional Children's Courts in all the administrative Regions of the country.
2. Define the 'minimum age for deprivation of liberty' and amend section 213 of the Children's Act 2005.
3. Ensure that all new Police Stations have separate facilities for children and women.
4. Encourage the Children's Courts to apply non-judicial measures as provided in S.220(1) of the Children's Act 2005.
5. Develop and implement comprehensive rehabilitation and reintegration programmes for children in the child justice system.
6. Ensure the privacy and confidentiality of children are maintained when charged with adults.

**K. Ratification of the Optional Protocol on a communications procedure**

**34.** The State has not yet signed or ratified the CRC Optional Protocol on communications procedure.

## **We recommend that the State:**

1. Expedite the ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure

## **L. Ratification of international human rights instruments**

**35.** We commend the Government for ratifying the following instruments: the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>47</sup>; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)<sup>48</sup>; Convention on the Rights of Persons with Disabilities (CRPD)<sup>49</sup>; the International Convention for the Protection of All Persons from Enforced Disappearance (CED)<sup>50</sup> and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict<sup>51</sup>.

The Government is also commended for domesticating the CAT through the enactment of the Prevention and Prohibition of Torture Act 2023. However, the CMW and CED have not been domesticated yet. In March 2021 the State submitted its initial report on CED.

The State has not yet submitted its initial report on the Optional Protocol on the sale of children, child prostitution and child

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<sup>47</sup>Ratified on 28 September 2018

<sup>48</sup>Ratified on 6 July 2015

<sup>49</sup>Ratified on 28 September 2018

<sup>50</sup>Ratified on 27 September 2019

<sup>51</sup>Ratified in April 2012

pornography<sup>52</sup> and the Convention on the Rights of Persons with Disabilities (CRPD)<sup>53</sup>.

### **We recommend that the State:**

1. Effectively enforce and implement the Prevention and Prohibition of Torture Act 2023 and train law enforcement on it.
2. Ratify the Optional Protocol to CAT (OP-CAT)
3. Domesticated CED and CMW.
4. Submit the initial reports to CAT, CMW, CRPD and the CRC Optional Protocol on the sale of children, child prostitution and child pornography.

## **M. Cooperation with regional bodies**

**36.** We commend the Government for extending an invitation to the African Committee of Experts on the Rights and Welfare of Children (ACERWC) which undertook an Advocacy Mission to the country from 29 August – 1 September 2023. The visit was undertaken primarily to urge the Government to submit its initial report on the African Charter on the Rights and Welfare of the Child (ACRWC) which was due in 2002.

### **We recommend that the State:**

1. Expedite the submission of its initial report on the ACRWC.
2. Urge the Government to extend standing invitations to all Special Procedures.

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<sup>52</sup>Ratified in April 2012

<sup>53</sup>Ratified in 2015

## CONCLUSION

**37.** The Commission prepares this Complementary Report to provide the Committee on the Rights of the Child with a comprehensive overview of the State's implementation of the CRC and what could be done to significantly improve the welfare of children in the country. It is hoped that the Committee will give due consideration to the Commission's recommendations in its constructive dialogue with the State.

## NOTES

[illegible]

Preparation of the report supported by

