

**COUNTRY-SPECIFIC INFORMATION ON THE IMPLEMENTATION OF THE
CONVENTION ON ELIMINATION OF ALL FORMS OF DISCRIMINATION
AGAINST WOMEN IN THE GAMBIA**

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**SUBMISSION BY THE NATIONAL HUMAN RIGHTS COMMISSION(NHRC)
OF THE GAMBIA**

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ACRONYMS

CSOs	Civil Society Organisations
FGM/C	Female Genital Mutilation/Cutting
NAATIP	National Agency Against Trafficking in Persons
NALA	National Agency for Legal Aid
NHRC	National Human Rights Commission
NGO	Non-Governmental Organisation
SGBV	Sexual and Gender Based Violence
TIP	Trafficking in Person
TRRC	Truth, Reconciliation and Reparation Commission

INTRODUCTION

The National Human Rights Commission of The Gambia (NHRC) is an independent statutory body established by the National Human Rights Commission Act 2017 to promote and protect human rights in The Gambia.

This report is the NHRC's first report to the CEDAW Committee. It highlights the NHRC's observations of the progresses and challenges the Government has made in its implementation of the Committee's Concluding Observations on the combined fourth and fifth periodic report¹ as well as concerns and questions raised in the List of Issues and Questions on the 6th State report.² This report outlines relevant legal, administrative and institutional reforms that have been made by the State as part of efforts to eliminate all forms of discrimination against women and their compliance with international standards. The views and opinions expressed in this report are solely those of the NHRC.

This report addresses specific thematic areas of concern to the NHRC, in particular women's participation in political and public life, sexual and gender-based violence, implementation and enforcement of legislation on women's rights and protection, women's access to justice, human trafficking and sexual exploitation, harmful practices and women's economic empowerment.

BACKGROUND

In 1993 The Gambia ratified CEDAW without reservations and thus committed to implementing the rights and freedoms of women contained therein.

This report by the NHRC is in fulfilment of its mandate and role in the promotion and protection of the rights of women in The Gambia. The NHRC has, in accordance with s.19 of its Act, established a thematic committee on the rights of women and other vulnerable groups, with a mandate to ensure the fulfilment of women's rights as enshrined in CEDAW and other relevant regional and international instruments.

This report is informed by the outcomes of the NHRC's programs and activities, consultations with and information from relevant national, regional and international stakeholders and Civil Society Organisations.

¹ CEDAW/C/GMB/CO/4-5

² CEDAW/C/GAM/Q/6

Thematic Areas of Concern and Recommendations

Trafficking

The NHRC recognises the progress the Government has made in the fight against Trafficking in Persons. NAATIP has organised series of capacity building programmes for law enforcers, prosecutors and judges on investigation and prosecution of trafficking.

However, the NHRC is concerned about the inadequate implementation mechanisms for the prevention, protection and prosecution of human trafficking. In the 2021 and 2022 US Department of State Trafficking in Persons Report, The Gambia was placed at Tier 2 Watch List and Tier 2 respectively. The Report highlights the continuous victimisation of women and girls through prostitution and forced labour.³

In her visit to the Gambia in 2019, the Special Rapporteur on the Sale and Sexual Exploitation of Children expressed concern that despite awareness efforts, no one involved in the sale, sexual abuse or exploitation of children or in human trafficking, was known to have been prosecuted or convicted.

There is still a low rate of prosecutions, convictions and sentencing, in comparison with the number of reported cases as indicated in Table 1.0. Since the repatriation of 36 women and 2 child victims of trafficking from Lebanon in September 2020, there has not been any prosecution or conviction of the alleged perpetrators.⁴

NAATIP attributes the low rate of prosecutions to the reluctance of victims to participate in court due to the stigma they face,⁵ which in the case of women can further be attributed to the discriminatory economic and socio-cultural barriers that they continue to face in The Gambia.

Table 1.0⁶

YEAR	Investigations	Prosecutions	Convictions	
2019	1	1	0	
2020	15	0 initiated 3 continuing	0	
2021	23	2 initiated 3 continuing	0	

Recommendations:

The NHRC urges the Committee to recommend to the State to:

- ❖ Allocate sufficient budgetary and technical support to NAATIP
- ❖ Build the capacity of law enforcement officers, prosecutors and the judiciary on a gender-based approach to the implementation of policies and enforcement of laws

³ US State Department's Trafficking in Persons Report on The Gambia: 2019, 2020, 2021 reports: [Gambia - United States Department of State](#); [Gambia - United States Department of State](#)

⁴ As above.

⁵ NAATIP Updates to the Inter-Ministerial Committee on CEDAW

⁶ US State Department's Trafficking in Persons Report on The Gambia: 2019, 2020, 2021 reports: [Gambia - United States Department of State](#); [Gambia - United States Department of State](#)

- ❖ Due to the nature of trafficking as a complicated Transnational Organised Crime, align national efforts with regional and international mechanisms in combatting TIP
- ❖ Raise awareness on TIP in collaboration with relevant NGOs, CSOs and other relevant stakeholders
- ❖ Review the Trafficking in Persons Act 2007 to cater for new trends in human trafficking, including provisions against human smuggling.

Women’s rights and gender equality in relation to the pandemic

The NHRC applauds the Government for the steps and measures taken to alleviate the negative impact of Covid-19 on the population. These measures included remote learning mechanisms put in place by Ministry of Basic and Secondary Education, the establishment of a SGBV Technical Working Group which developed strategies to address anticipated SGBV cases arising as a result of the pandemic and provide support to victims, and the setting up of a SGBV Hotline 1313⁷ with the support of an NGO, Paradise Foundation.

However, there has not been any research to know the impact of these interventions and it is reported that the Hotline is not always functional. The remote learning mechanisms have been criticized for not adequately catering for the needs of all children, including children with disabilities and those from poor families, as access required the availability of electricity supply, internet connectivity, radio or television. Anecdotal evidence showed a higher prevalence of child labour and violence against girls, including child marriage and FGM. The pandemic continues to limit the access of women and girls to sexual and reproductive health services, mainly due to the primary focus of the Ministry of Health on COVID-19 programmes.⁸ Pregnant women are also reported to not being afforded family planning service on an ongoing basis due to the designation of health facilities as COVID-19 treatment centres. This is reported to have led to a pregnant woman losing her life.⁹

Recommendations

The NHRC urges the Committee to recommend to the State:

- To provide continued and uninterrupted health services to women and girls during times of public emergency affecting the country.
- Develop and popularise a comprehensive COVID -19 Recovery strategy which places women at the centre to address deep-rooted inequalities between women and men.

⁷ Huge succour for gender based violence victims as FBB launches helpline, The Fatu Network: <https://fatunetwork.net/huge-succour-for-gender-based-violence-victims-as-fbb-launches-helpline/>

⁸ P.54, State of Human Rights Report in The Gambia 2020, National Human Rights Commission: <https://www.gm-nhrc.org/annual-reports> accessed 8 September 2022.

⁹ EFSTH explains, investigates suspected ‘negligent’ death, The Standard, <https://standard.gm/efsth-explains-investigates-suspected-negligent-death/>; accessed 9 September 2022

- Adequately support the SGBV hotline and popularise its use within The Gambia.

Participation in Political and Public life

The NHRC recognizes the increase in the number of women in the Judiciary. Currently, two women Judges serve in the Supreme Court, two in the Court of Appeal and six women serve as High Court judges. The appointment of two women as Cadis¹⁰ in February 2022, for the first time in the history of the Judiciary, is also commendable. While women continue to be represented in other areas of public life such as in law enforcement, and education and legal sectors, they are underrepresented in senior decision-making positions in these sectors.

Women continue to be underrepresented in the country's political and public life with currently all three arms of Government headed by men. As provided in the National report, the country is yet to attain 30% female representation within the area of politics. Currently, there are only three female Cabinet Ministers out of a total of twenty-one. The position of Vice President, which has long since been held by a woman, was this year given to a man which greatly reduces the number of women at the highest echelons of the decision-making process. At the level of the National Assembly, only five of the 58 representatives are women, two of whom are nominated members. A rigorous campaign to amend the 1997 Constitution to introduce a 30% quota system in time for the April 2022 Legislative election, through a Private Members' Bill failed this year. At the local government level, the State report shows that female representation remains low with few women elected to office or nominated by political parties to contest elections.

Recommendations

The NHRC urges the Committee to recommend to the State:

- As a matter of urgency, adopt and put in place special measures to increase the number of women in senior public offices.
- Appoint more women to the Cadi Courts and the Cadi Appeals Panel.

National Human Rights Commission

The NHRC commenced operation in February 2019. Its primary mandate is to promote and protect human rights in the country. In March 2022, the NHRC gained "A" status accreditation from GANHRI. It enjoys financial, administrative and institutional independence in line with the Paris Principles.¹¹ The NHRC submits its annual reports of activities and State of Human Rights to the National Assembly which is the oversight body for the NHRC. To ensure the mainstreaming of women's rights in its work, it has established a Thematic Committee on Vulnerable Groups

¹⁰ "Gambia appoints first women cadis" The Standard, <https://standard.gm/gambia-appoints-first-women-cadis/>; accessed 9 September 2022

¹¹. Section 16 of the NHRC Act guarantees the independence of the NHRC.

which includes an expert on the rights of women. The NHRC’s complaint mechanism encourages women to submit complaints on human rights violations in both public and private spheres.

As a public entity, the NHRC receives its main financial resources from the Government, with donor support on few secured projects. It is, however, challenged with inadequate financial resources to effectively deliver its mandate as government allocations continue to dwindle annually. The table below illustrates the financial allocation from the Government to NHRC from 2020-2021.

Table 2.0

Year	Budget (GMD)	Allocations (GMD)	Allocation %
2020	45,150,000	36,200,000	80%
2021	41,483,030	35,893,430	87%
2022	54,678,820	27,113,862 ¹²	50%
TOTAL	141,311,850	99,207,292	70.20%

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Increase its annual budgetary and monthly allocation to the NHRC to ease the effective operations of the NHRC.
- Continue to safeguard the independence of the NHRC.

Sexual and Gender-Based Violence (SGBV)

The NHRC appreciates the efforts of the Government in combating SGBV, including the enactment of legislation and the engagements of communities by CSOs in awareness raising. Gender Units have been established in key statutory protection agencies such as the Ministry of Justice, The Gambia Police Force and other security agencies whose mandate is to enhance services provided to women victims of SGBV. There are specific Directorates for Gender and Children at the Ministry of Gender, Children and Social Welfare. Government partnership with the Network Against Gender-Based Violence (a CSO) has seen the creation of One Stop Centres in nine health facilities¹³. These centres are meant to provide medical, legal and counselling support to victims of sexual and domestic abuse in one place¹⁴.

¹² 1 January 22 – 25 August 22

¹³ Edward Francis Small Teaching Hospital, Kanifing General Hospital, Bundung Maternal and Child Health Hospital, Brikama District Hospital, Bwiam General Hospital, Bansang General Hospital, Soma, Basse, Farafenni and Essau district hospitals.

¹⁴ Various categories of women experience abuses in the Gambia particularly women and orphans living with HIV/AIDS, experiencing stigma related gender-based violence and human rights violations. The under reporting of cases, creates impunity and limited care and support to affected women.

However, as shown in the tables below, women and girls in The Gambia continue to disproportionately suffer from SGBV, including FGM/C and virginity sealing, child and forced marriage, marital rape, sexual violence, and physical, economic, and emotional abuse.

2019 Verified Data from the One Stop Centres and other Service Sites

GBV TYPE	NUMBER OF CASES	PERCENTAGE (%)
SEXUAL VIOLENCE	217	50.8%
ECONOMIC VIOLENCE	113	26.5%
PSYCHOLOGICAL/EMOTIONAL VIOLENCE	42	9.9%
PHYSICAL VIOLENCE	51	11.9%
HARMFUL TRADITIONAL PRACTICES	4	0.9%
TOTAL GBV CASES	427	100%

Data provided by the Network Against Gender Based Violence

2021 verified data from the One Stop Centres and other service sites

TYPE/Form of Violence	NUMBER OF CASES	PERCENTAGE (%)
SEXUAL	157	36
PHYSICAL	41	9
PSYCHOLOGICAL/EMOTIONAL	105	24
ECONOMICAL	121	28
HARMFUL TRADITIONAL PRACTICES	13	3
TOTAL	437	100

Data provided by the Network Against Gender Based Violence

The TRRC’s thematic hearing on SGBV unveiled various sexual violations suffered by women and girls during the regime of former President Yahya Jammeh while in detention or during interrogations to elicit information from them.

The NHRC’s 2021 Study on Sexual Harassment in the Workplace shows a high prevalence of sexual harassment, with many public and private institutions not having a Policy to address the phenomenon. It was revealed that due to factors such as fear of reprisal, shame and stigmatisations, many victims do not report sexual harassment.

For many women, accessing justice remains a problem due to high costs and lack of knowledge on how to seek redress. Media and public scrutiny faced by women who report sexual violence and other human rights violations against them, including those who testified in the TRRC's SGBV thematic hearing, show the continued challenges they endure through revictimization and inadequate protection. Apart from the Gender and Child Welfare Unit of the Police, it is difficult to know the impact of the other Gender Units in effectively addressing SGBV in the country or providing necessary support to victims. While the establishment of 'One Stop Centres' are useful, their operations are affected by limited resources such as human, financial, and material resources needed to expand and continue the services offered to other areas of the country.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Amend the Sexual Offences Act to include the offence of marital rape.
- Effectively implement the Domestic Violence Act and the Sexual Offence Act (2013).
- Activate the Victims of Violence Advisory Committee as provided by the Domestic Violence Act.
- Improve outreach support services to women and girls who are victims of FGM and sexual, physical, economic, and emotional abuse.
- Continue engagements with communities to raise awareness of violations against women and girls.
- Adopt and popularise an implementation strategy providing clear steps on how the government will implement its White Paper on the TRRC report particularly the theme on SGBV.
- Put in place adequately resourced care and protection services and programmes (for treatment, psychological counselling, support, and recovery and reintegration) for GBV victims.
- Develop measurable, adequately disaggregated evidence-based indicators to monitor and evaluate the prevalence of violence against women.
- Ratify ILO Convention 190 concerning the Elimination of Violence and Harassment in the World of Work and ensure its domestication and effective implementation.

Constitutional and Legislative Framework

The NHRC recognizes the existence of Constitutional provisions such as S.28 of the 1997 Constitution and domestic legislation such as the Women's Act 2010 which accord women full and equal dignity of the person with men and the right to equal treatment with men including equal opportunities in political, economic and social activities. In 2019, the Government undertook a review of the Constitution and all discriminatory gender laws, including other subsidiary laws, to ensure they are in line with international best practices and the obligations of

the State. The review resulted in amendments to the Married Women's Property Act, the Women's Act 2010 and the Domestic Violence Act in 2021.

Section 33 of the Constitution prohibits discrimination on several grounds including gender. However, section 33 (5) (C) still subjects the prohibition of discrimination to personal law, despite discourse regarding its repeal.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Repeal all discriminatory laws
- Ensure the enforcement and implementation of all legislation for the protection of women against all forms of discrimination

Access to Justice by Women

In 2022, the Judiciary appointed two female Cadis to the Cadi Court.

The Cadi courts still rely on principles of Sharia law in matters of marriage, divorce, and inheritance some of which are discriminatory towards women.

The National Agency for Legal Aid (NALA) provides free legal services to vulnerable persons including women. Its legal services include legal representation for capital offenses. In 2017, the Agency launched its Mobile Legal Aid Clinic, and has undertaken legal aid services in Districts of the North Bank Region of the Gambia.

Despite the efforts of NALA, women continue to face barriers in accessing justice due to poverty and lack of awareness of available legal aid services and NALA's mandate. This contravenes women's fundamental right of access to justice as guaranteed by the Constitution and other international legal instruments the Gambia is party to.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Provide adequate financial allocation to NALA to be able to effectively carry out its mandate.
- Increase public awareness of State mechanisms to promote access to justice, especially women victims.
- Amend the NALA Act 2008 to ensure legal representation for women from poor backgrounds through a thorough means test criteria.

Marriage and Family Life

The NHRC recognises the existence of legislation such as the Children’s (Amendment) Act 2016 which prohibits child marriage and set 18 years as the minimum age for marriage, as well as the efforts of the Government to combat the practice.

However, child marriage is still prevalent according to UNICEF’s 2018 MICS Report. There is weak enforcement of the law and since the amendment in 2016, no one has been prosecuted for child marriage. Debates on issues of equality in marriage and family relations are ongoing although there has not been much progress in the harmonisation of national legislation, including the Constitution, the Women’s Act (2010) and personal laws (Sharia and customary law) with the Convention.

Section 33 (5) (c) of the 1997 Constitution has still not been repealed, thus women continue to face discrimination in respect of marriage, divorce, and inheritance. Furthermore, the State is yet to replace the term “equitable” by “equal” in the Women’s Act (2010) as regards to women’s access to property and to ensure that judges interpret it accordingly in their judgements.

The Government is yet to undertake a study on the good practices of other countries with Muslim populations to understand how to promote equality in marriage and family relations.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Repeal all discriminatory provisions to ensure that women and girls enjoy equal rights as men in all areas of life.
- Expedite legislative processes to enhance the harmonisation of legislation, including the Constitution, the Women’s Act (2010) and personal laws (Sharia and customary law) with the Convention.
- Urgently repeal Article 33(5) of the 1997 Constitution which provides that the prohibition of discrimination does not apply in respect of adoption, marriage, divorce, burial and devolution of property on death.
- Undertake a study on the good practices of other countries with Muslim populations which have non-discriminatory personal status laws in line with the Convention.

Harmful Traditional Practices

Despite the existence of numerous legislation and being party to international and regional instruments, women in The Gambia continue to be subjected to harmful practices. FGM/C and child marriage are still practiced across the country. According to the DHS 2019-2020, nearly 73 percent of women aged 15-49 years have undergone the practice. The survey also showed that FGM is prevalent in Basse, Upper River Region, at 95 percent among women aged 15-49 years.

The trend is not declining despite the ban in 2015 through the amendment of sections 32 (A) and (B) of the Women's Act in 2015.

While 18 years has been set as the minimum legal age for marriage, child marriage remains prevalent. According to the MICS 2018, 34.2 per cent of the women aged 20-49 years were married before the age of eighteen years.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Ensure strict implementation and enforcement of the laws and policies against harmful traditional practices and prosecution of perpetrators.
- Strengthen data collection analysis.
- Intensify awareness, and engagements with traditional and religious leaders, on harmful traditional practices.
- Put in place appropriate mechanisms for the prevention, protection and quality care services for victims of harmful traditional practices.

Concluding Remarks

The NHRC acknowledges the State's continuous efforts to promote, protect and fulfil the rights of women, especially against all forms of discrimination. It also commends the progress registered in the establishment of the legal, administrative and institutional frameworks. However, the gaps and challenges highlighted in this Report show that the State should do more to fulfil its obligations as a State party to the Convention. The NHRC hopes that the Committee would consider the recommendations in this Report as it continues to engage the State in addressing the various gaps and challenges that impedes the realisation of the rights guaranteed in the Convention.