

# Universal Periodic Review of Gambia

## SUBMISSION ON BEHALF OF THE GAMBIAN CIVIL SOCIETY COALITION ON WOMEN'S RIGHTS

### 20TH SESSION OF THE UPR WORKING GROUP, OCTOBER- NOVEMBER 2014

#### 1. FOLLOW UP TO THE PREVIOUS REVIEW

The Gambia agreed to support the following recommendations specifically relating to women and children's rights in 2010: Recommendation 29, 30, 31, 38, 46 and 52.

Although The Gambia agreed to the recommendations we have observed that the above have not been given the due attention and as a result they were not or only partially fulfilled. Please take note of the following observations regarding the state of the recommendations.

##### **Recommendation 29: to continue to promote efforts to fight FGM (Angola)**

A draft bill that seeks to criminalize and abolish FGM has been subjected to a national consultation and reached consensus to put it into a law. It was submitted to the Office of the Vice President and Ministry of Women's Affairs so that they can place it before the National Assembly for legislation but there has been no official acknowledgment or response from them.

##### **Recommendation 30: to step up measures to comprehensively address the problem of violence against women, including FGM, by expediting the enactment of the Women's Bill (Malaysia)**

We realize with deep concern that in the 2013 Domestic Violence Act, FGM has been removed from the final document with a justification that it is a religious obligation for girls to be circumcised. This is a clear violation of the rights and dignity of girls including in violation of the Gambian Constitution on the rights of women as well as the Convention on the Rights of Children and the Children's Act.

##### **Recommendation 31: to intensify measures to effectively combat child sexual abuse and exploitation (Azerbaijan)**

There is no evidence showing that measures are in place to effectively combat child sexual abuse and exploitation. The incidence of pedophilia and child pornography exist in the Gambia yet because of limited reporting largely due to lack of capacity at police and health facilities, coupled with high levels of poverty and a culture of silence, many of these go unreported. Where they are reported, the likelihood for offenders who are usually European tourists to bribe police officers to go free is high. While stiff penalties have been placed on rape, the culture of silence mostly by women continues to be a major obstacle, while again the lack of capacity of health and law enforcement agencies serve to make the fight against rape quite difficult. Even though there exist the Tourism Offences Act and the Trafficking in Persons Act, their

enforcement is weak. There has also not been enough public awareness creation on these pieces of legislation.

**Recommendation 38: in line with CEDAW recommendations, to address the problem of maternal and infant mortality and make every effort to increase women's access to health services (Kazakhstan)**

The Gambia has only 2 major referral hospitals with several regional health centres. However in most cases, these facilities lack the basic equipment and drugs to address the needs of mothers and pregnant women. Beds are inadequate and in some parts of the country pregnant women arrive by donkey or horse carts because of limited availability of ambulances, and lack of fuel for the vehicle. Thus even though maternal health services are free of charge, poor mothers and pregnant women would still have to buy drugs, and where one wishes to have better services, one would have to go to private clinics which are more expensive. Thus maternal mortality in the Gambia is high.

**Recommendation 46: to give more attention to improving the status of women and children (Algeria)**

Laws that strategically address women and children are watered down in their language and are undermined by religious leaders who are publicly against women's rights which they claim are intended to destroy the way of life and Islam by imposing foreign cultures on Gambian society. Furthermore, the religious leaders in the Supreme Islamic Council have in the past been part of the Gambia's delegation to the CSW, in 2012 and 2013, and they come back from these international meetings to undermine all the efforts of women rights organizations as well as by the government itself to empower and protect women and girls. Some Islamic leaders of the Supreme Islamic Council are given prominent seats in National Committees addressing Violence Against Women and Children, thus sending the wrong signal to the vulnerable public who depends on them and undermining government policies on the advancement and empowerment of women and the protection of their rights.

## 2. THE NATIONAL HUMAN RIGHTS FRAMEWORK

The Gambia is a signatory to almost all the human rights treaties and conventions that promote the rights of women and children. Therefore we appreciate the efforts made by the Government of the Gambia in advancing the human rights of women and children thus achieving formal equality. It has also created adequate provision in the Bill of Rights, namely the Constitution of the Gambia Chapter 4 respecting the right of women. Also in response to these Bills of Rights, conventions and treaties, the government has come up with policies to promote the rights of women and children and has enacted some of these into laws such as the Children's Act 2005, The Women's Act 2010, and the Domestic Violence Act 2013.

It has also created the relevant machinery to implement these policies such as the Ministry of Women's Affairs and the National Women's Bureau and Council. Thematic working groups and coalitions addressing violence against women and children have been created to encourage various actors working on such issues to come up with programmes and activities to promote women and children's rights.

While these mechanisms and policies are in place, there are remaining challenges and gaps to advance women and children's rights in the Gambia. These are both structural and legal thus affecting the extent to which women and children can enjoy these rights as individuals, groups

and people in special circumstances. These gaps affect the attainment and enjoyment of their rights if they are not given the right attention and proper financial support.

We are concerned that since the ratification of these instruments progress has been limited to the policies and laws that have been developed. For example Gambia has not yet fulfilled its reporting obligation to the CRC and CEDAW committees. It is also of concern that the Gambia is still not a party to the Optional Protocol to CEDAW, or to the Optional Protocols on children in armed conflict and on communications to the Convention on the Rights of the Child.

Similarly, there is very little budget for the relevant institutions such as the Ministry of Women Affairs and the National Women's Bureau and Council to implement their mandate to advance the rights of women and children. For example, the 2012 and 2013 budgets are very small, GMD 1,393,990:00 and GMD 1,396,990:00 which translates to US\$ 37,675.40 and 37,756.48 respectively. In fact the budget is derived from the Office of the President's budget line and not as an autonomous body of its own. As a result activities to implement are affected by this gap (see section below).

Also, there is weak capacity in the Ministry of Women Affairs and the national machinery with regards to Women's Rights Programming thus affecting the coordination, planning and implementation of strategic women's rights issues. We have observed that the mechanisms put in place are politicised and therefore this alienates most of the technically relevant human resources from applying for such positions. Also, those in the services of the Ministry of Women Affairs are inhibited for making decisions to advance women and children's rights in the Gambia, as this could be perceived as undermining the government stance and they would risk losing their jobs.

The fact that the public sees the government using the national mechanism as a tool for its partisan political activities jeopardises and undermines the national interest in recognising the rights of women without discrimination. These structural challenges hinder the extent to which women of the Gambia are able to enjoy their rights.

We have observed that the Gambia does not usually cooperate with UN human rights mechanisms, such as issuing a standing invitation to the Special Procedures or accepting their request to visit (as indicated on the website of OHCHR). The Gambia is also behind in its reporting to the Treaty Bodies:

- Human Rights Committee (ICCPR): most recent Concluding Observations issued in 2004
- Committee on the Elimination of Discrimination against women (CEDAW): Concluding Observations issued 2005
- Committee on the Elimination of Racial Discrimination (CERD): Concluding observations in 2009
- Committee on the Rights of the Child (CRC): Concluding observation issued in 2001
- Committee on the Economic, Social and Cultural Rights (CESCR): observations in 1994

### 3. THE HUMAN RIGHTS SITUATION ON THE GROUND

#### **Female Genital Mutilation**

Due to lack of political will and a specific law banning it, Female Genital Mutilation, continues to

be practiced by a significant number of Gambians both in the rural and urban areas and this continues to affect the sexual and reproductive health and rights as well as the bodily integrity of women and girls. The prevalence of FGM is still very high in The Gambia. About 76.3 per cent of women aged 15-49 have some form of FGM.<sup>1</sup> 42.4 per cent of women have reported that at least one of their living daughters aged 0-14 years has undergone FGM while 64.2 per cent approve of FGM.<sup>2</sup>

The practice of FGM appears more common in rural areas at 78.1 per cent than in urban areas, at 74.6 per cent.<sup>3</sup> The practice is done on innocent children without their consent which leaves an everlasting and irreversible effect on their health and well being, for example, vesico vaginal and recto vaginal fistulae, keloid formation and the trauma experienced leading to psychological impact on them.

### **Juvenile detention**

There are supposed to be children's courts in all the 7 administrative regions of the Gambia but only 3 are available and access is not easy. This has led to prolonged delay in some cases. The only juvenile detention centre is not suitable for children because adults are also kept there, which breaches the rights of children to be held in separate and appropriate facilities when held in detention.

### **Discrimination against girls in access to education**

So many girl children in the Gambia are being discriminated against and are seen as the weaker sex, thereby not given the chance to go to school or to be retained in school, and this disempowers them as they grow up to be women. The lack of empowerment can lead to their lack of interest in participating in politics and decision making processes, even though women may be used by male politicians to mobilise people and canvass for votes. About 90% of Gambian women are illiterate and this leads to their unemployment and negatively affects their economic status in the community.

### **Women Human Rights Defenders**

There is also a gender dimension in situations where Women Human Rights Defenders are faced with hate speech because of the gender specific and responsive human rights work they do, including on sexual and reproductive rights issues. The President openly threatens women human rights defenders and is silent on the attacks and threats against them meted in the state-owned radio station, which often uses hate speech against women rights activists and human rights defenders.

Similarly, we have observed threats posed against lesbians and same-sex marriage which is a huge human rights concern for us as women rights activists.

Women's rights activists and Civil Society Organisations working on women's rights face systematic harassment from the state security agents such as the National Intelligence Agents (NIA) because of the human rights work they do. Sometimes their constructive engagement with the state to advance women's rights is misconceived to imply that they are interested in political positions such as presidency. As a result, some of them are targets for threats, harassment and abuse by the state. This creates a disabling environment for human rights work in the Gambia, especially for women human rights defenders. Similarly, their families are also

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<sup>1</sup> UNICEF-Banjul MICS IV 2010 Report, published in 2013

<sup>2</sup> UNICEF-Banjul MICS IV 2010 Report, published in 2013

<sup>3</sup> UNICEF-Banjul MICS IV 2010 Report, published in 2013

targets of harassment by state security.

## **4. RECOMMENDATIONS FOR ACTION BY THE GAMBIA**

**We call on the government of Gambia to:**

1. Enact and enforce legislation against Female Genital Mutilation to punish offenders and protect the rights of girls and women to physical integrity and freedom from torture.
2. Adopt measures to protect the rights of certain vulnerable groups of children, in particular girls, children born out of wedlock and children with disabilities (this was recommended by Chile in 2010 review)
3. Upgrade the health care facilities, improve health care services for women and children, especially health care centers for minors and infants, and ensure that they are provided with qualified and adequate health personnel to improve the health care deliveries.
4. Make available data indicating trends in maternal mortality and showing the extent to which women are accessing quality health service
5. Provide a gender responsive budget to promote the rights of women and girl children, including funding scholarship for university education, skill enhancement centres, and increasing the budget line for the national machinery.
6. Establish children courts in all the administrative regions of the Gambia for easy access to justice.
7. Provide more budgetary allocation to the health needs of women and children, as well as ensure that health facilities across the country are better equipped and well resourced with health products.
8. Put in place proper mechanisms in terms of reporting, management and protection of victims and confidentiality to protect rape victims and their identities, and to make available adequate support in access to justice, health care and technical resources.
9. To recognize the work of women human rights defenders and promote and protect them from threats, abuse, false allegations and harassments.
10. To stop harassing and abusing the families of Human Rights Defenders