

COUNTRY REPORT ON THE GAMBIA-
How far have we come in the Protection and Promotion
Of Womens' Rights- by FLAG
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INTRODUCTION

Female Lawyers Association (Gambia)-FLAG is a relatively young Association formed in 2006. Membership of FLAG is open to all female lawyers of the Gambia and presently it stands at 47. We are proud to say that we also have as honorary members some of our male colleagues (most of whom are senior members of the Bar) who have encouraged and supported us from our inception. Our main objective / mandate is the provision of free legal advice and representation to indigent women and children. We also organize programmes across the country aimed at sensitizing and educating the public on issues affecting women and children.

This is a report on the status of women generally, the progress made so far and the challenges faced in ensuring the protection and promotion of women's rights in the Gambia.

BACKGROUND

The Republic of The Gambia is a signatory to the **African Union (AU) Solemn Declaration on Gender Equality in Africa (Declaration)** which was adopted by the heads of state of AU in July 2004. In the Declaration, the Heads of states reaffirmed their commitment to gender equality as enshrined in Article 4(1) of the constitutive Act of the African Union as well as other existing commitments, principles and obligations set out in the various regional, continental and international human rights instruments, particularly those addressing women's rights.

Paragraph 12 of the Declaration commits the heads of state to reporting annually on progress made in gender mainstreaming and to support and champion all issues raised in the Declaration, both at the national and regional levels.

The report provides information on the existing situation regarding the institutional, policy, and legal mechanisms in place for women's empowerment and gender equality in The Gambia, as well as any progress made since the adoption of the Declaration, with regard to its specific provisions.

PART 1: INSTITUTIONAL MECHANISM AND POLICY FRAMEWORK FOR GENDER EQUALITY

1.1 The National Gender Machinery -The Vice President of the Republic of the Gambia Dr Aja Isatou Njie Saidy herself a woman, is also the Minister responsible for Women's Affairs thus indicating that the Government realizes and recognizes the vital and important role women play in national development

The National Women's Council and Women's Bureau then established by The National Women's Council Act, Act No 9 of 1980 has now been repealed by the **Womens' Act 2010** which re-establishes the Council and provides that the National Women's Council 'shall advise the Government regularly on women's rights issues' on education, health, welfare and other issues affecting the of women.

The Act further charges the council with wide functions and duties all geared towards ensuring gender equality and the full and effective participation of women in all aspects of socio- economic development.

The Women's Act sets up the **Administrative Bureau** (headed by an Executive Director) is the executive arm of the Council and is charged with its day to day administration, and the implementation of policy decision made by the Council. The Council and Bureau with the support of, and in collaboration with related institutional structures and civil society organizations strive to integrate women into the Gambia's socio-economic development process as equal partners, participants and beneficiaries.

The various institutions on womens' issues in the Gambia are as follows:

The Ministry of Womens' Affairs
National Womens' Council
The Administrative Bureau
Non- Governmental Organisations and Civil Society Organisations
Other Development Partners

all of whose roles range from coordinating, lobbying providing technical support, advocating on gender issue, developing and implementing programs to name a few.

1.2 NATIONAL POLICY FRAMEWORK FOR WOMEN'S EMPOWERMENT AND GENDER EQUALITY.

The National Policy for the Advancement of Gambian Women 1999-2009 was adopted and ratified by the National Assembly in 1999. The policy was formulated with a view to strengthening the institutional capacity of the national gender machinery, and expressly taking on board the policy consideration and obligation enshrined in the International Bill of Rights for Women. i.e. **the CEDAW Convention**. The Gambia ratified the CEDAW Convention in 1992, following which concerted national efforts was geared towards adopting policy and legal instruments in consonance with the tenets of the Convention and the Beijing Platform of Action.

The 1999 policy framework was quite comprehensive and was envisaged to have a ten year life span up to 2009. The Government recently embarked on initiatives to adopt a new gender policy to replace the 1999 policy. The new policy orientation in the draft Gender Policy is to focus on men and women as equal partners in development and take on board recent international, regional and national initiatives on the advancement of women, namely, the Millennium Development Goals, the African Protocol on the rights of women in Africa, and the National Poverty Alleviation Strategy, (PRSP II).

In line with the new policy initiative and orientation, The Gambia has also enacted the **Women's Act 2010** which incorporates and domesticates both the CEDAW and the African Protocol on the rights of women in africa. The Act is innovative, in that it expressly incorporates the specific provisions of the African Protocol into national law. It's enactment therefore fulfills most of the legal and legislative commitments enshrined in the Declaration. There are however some aspects of the Protocol and the CEDAW such as the specific issue of the practice of Female Genital Mutilation (FGM) which never made it to the Womens' Act because of its sensitive and controversial nature. The Gambia is still a country where most people and tribes are still steeped in their traditions and cultural practices some of which unfortunately are harmful to women and children. The campaign to eventually ban and criminalise the practice of FGM is still very active by various non- governmental organizations such as Gambia Committee on Traditional Practices (Gamcotrap). It is believed that the more our people are educated on the subject of FGM and its effects, the more they tend to agree that the practice is outdated and harmful to the health of women and girls. Increasingly, surveys show that the majority of educated women and men to a great extent who come from tribes that traditionally had all their women and girls circumcised, have not taken or have said that they will not take their daughters to be circumcised. That in itself is no mean progress in the fight to save and protect women and girls from this harmful practice.

1.3 CONSTITUTIONAL AND LEGISLATIVE BASIS FOR GENDER EQUALITY

1.3.1 Constitution of the Gambia 1997

The 1997 Constitution is the basic law of the land. The foreword states that “the fundamental rights and freedoms enshrined in the constitution will ensure full respect for and observance of human rights of the people at all times without discrimination based on ethnicity, gender, language or religion”. The foreword also guarantees participatory democracy, effective Government and peace and stability in The Gambia. The foreword does not form part of the substantive provision of the constitution; however it serves as an important tool in

understanding the history and context of the substantive provisions contained therein in relation to its objectives and purpose.

1.3.2 Equality of men and women

Section 28 of the said Constitution states that women shall be accorded full and equal dignity of person with men and shall be treated equally with men including being given equal opportunities in political, economic and social activities. This constitutional provision recognises the equality of men and women and the right to equal opportunities in all spheres. It is also in line with the CEDAW, the African Protocol, and the Declaration, as it seeks to eliminate discrimination against women.

The reality is however different. Women are not treated equally with men in all areas of their lives and these are based on practices which are deeply rooted in customary and traditional practices on the perception of men being superior and women inferior which perceptions many women themselves accept. There is the urgent need to continue to educate men and women alike, on a sustained and continuous basis in order to combat gender stereotyping. In this respect, the National Gender Machinery and various civil society organizations such as **Female Lawyers Association Gambia (FLAG)** have, over the years, been engaged in advocacy and training geared towards ensuring behavioral and attitude change of the customary and traditional perception of the status of women.

1.3.3 Right to participate in the political and decision making process

Section 26 states that every Gambian citizen of full age and capacity has the right to take part in the conduct of public affairs, to vote and be voted for in public office and equal access to public service without unreasonable restrictions. This clearly paves the way for the participation of women in the political affairs of the Gambia. However, reasonable restrictions may be imposed in the exercise of this right. What is reasonable is not defined but it is submitted that such restrictions shall not be imposed in such a way as to discourage or prevent women having an equal opportunity to participate in the political and decision making process of The Gambia.

In addition, **section 214(4)** states that “in the composition of Government, women shall be fairly represented”. This section is under the chapter relating to the directive principles of state policy which only serves as policy guidelines and is not enforceable. Government has made some strides in realising this right but more still needs to be done because women are still in the minority in Cabinet, Parliament where they form only 9.34% of the members and other public offices.

1.3.4 Equality before the law and protection against discrimination

Section 33 (1) provides that all persons are equal before the law and no person shall be discriminated against based on race, colour, **gender**, language, religion, political or other opinion, national or social origin, property, birth or other status. This section further defines discrimination as “affording different treatment to different persons attributable wholly or mainly on the respective descriptions...” as stated above.

However, there are exceptions provided in section 33(5). The non discriminatory clause does not apply to matters of personal law as it relates to adoption, marriage, divorce, burial and devolution of property on death or other matters as well as customary law in respect of any matter for persons to whom personal and customary law are applicable in so far as it relates to discrimination. This means that section 33 (1) is not applicable in these matters to the extent that the matter in issue borders on discrimination. Thus any other matter governed by personal and customary law which does not border on the issue of discrimination as regards the parties shall be subject to the consistency test with the provisions of the constitution as provided in section 4.

It is observed that section 33 is not totally in line with the Declaration and other regional and international instruments that require state parties to eliminate all forms of discrimination against women and girls and to actively promote and protect all human rights for women.

PART 2: IMPLEMENTATION OF THE SPECIFIC COMMITMENT OF THE SOLEMN DECLARATION ON GENDER EQUALITY

2:1 COMMITMENT 1: To Accelerate Implementation of Gender Specific Economic, Social, and Legal Measures Aimed At Combating the HIV/AIDS Pandemic and Effectively Implement both the Abuja and Maputo Declaration on Malaria, HIV/AIDS, Tuberculosis And Other Related Infectious Disease

The Government of the Gambia has pursued policies that seek to address the health, nutrition and demographic needs of the population. There is a conscious effort to strike a balance between population growth and socio-economic development. The National Health Policy “Changing for Good” 2001-2006 was adopted and it aims to provide quality health care services within an enabling environment, delivered by appropriately and adequately trained, skilled and motivated workers at all levels of care. A key component of this policy is the essential care package, which aims at addressing the common causes of morbidity and mortality, especially for women, children and the underserved. This policy has been replaced by The National Health Policy “Health is Wealth” and Health Master Plan. The health sector policies currently being implemented include National Reproductive Health Policy,, National HIV/AIDS Policy, The National Nutrition Policy and the National Population Policy and Plan of Action.

Public sector health service is delivered at three levels – primary, secondary and tertiary. The number of Government hospitals increased from two to five over the decade. There are forty health centers at the secondary level, and a network of 492 primary health posts spread across the country. 34 private and NGO clinics complement Public Health Services. These developments have to some extent improved access for women to health care and encouraged them to develop positive health seeking behavior.¹

Communicable and non communicable diseases are a major health hazard in The Gambia. Acute respiratory infections, (ARI), malaria, diarrhea are more likely to

¹ National Health Policy 2008-2020

affect poorer households. Households with less educated mothers are more likely to have these diseases with clear geographical disparity in levels of prevalence.²

2:1:1 Actions Implemented, Progress Achieved:

The high importance accorded to women's reproductive health is captured in the following statement: "every pregnancy is considered at risk but the maternal mortality rate of The Gambia is still high, putting the country behind targets for MDG 5" (PRSP Report 2008). Policies and programmes have been developed to address this gap. These include:

1. The National Population Policy (2007-2011), (NPP), adequately addresses Reproductive Child Health rights and the (NPP) Plan of Action 2007-2011 charts out ways and means of implementing the (NPP). The National Health Policy "Changing for Good" 2001-2006 and its successor Health Policy "Health is Wealth" and Health Master Plan 2008- 2020 aim at reducing morbidity and mortality through improving access to quality basic clinic care package and putting in place a quality assurance mechanism.

2. Other supportive policies developed in 2008 include the Health Financing Policy, National Laboratory Service Policy and Reproductive and Child Health Programme (RCH) Policy. A computerized Health Management Information System (HMIS) has been completed and the networking component is expected to be pursued soon. This will ensure availability of reliable data. The policy also looks at ways of integrating traditional medicine into the health delivery system.

3. The draft National Nutrition Policy 2009-2014, focuses on a life-long nutrition programme cycle beginning from the pre-natal stage and takes cognizance of emerging nutrition related non-communicable diseases. The Social Welfare Policy identifies the different categories of adults and children who need special types of support. Disabled adults and the elderly are targeted as a special group for support and care.

4. The single and most critical intervention for safe motherhood is to ensure that a competent and skilled health worker is present at every birth, and that

² Study On Household Behaviour in response to child illness

transport is available to a referral facility for obstetric care in case of emergency. The indicators are the proportion of births with a skilled attendant and the proportion of institutional deliveries. The skilled attendant at the delivery is also used to track progress towards the MDG target of reducing maternal mortality.

5. An efficient referral service is reliant on a reliable and well maintained transport fleet. Government has provided some ambulances for hospitals and Health Centres. These efforts are also being greatly complemented by NGO's and other donor agencies. In this regard a number of new ambulances and motorcycles have been obtained by **Riders for Health, the Global Fund Malaria component and UNICEF** to strengthen health service delivery and logistical support provided for their operations and maintenance. Second hand ambulances are also provided by the **Portsmouth/Banjul challenge** and other philanthropists who visit and help Gambians.

6. Other strategies that are used to reduce child and maternal mortality are malaria control and maternal and child nutrition. Malaria is the leading cause of death in U5 children and of morbidity in pregnant women. The free provision of insecticides-treated nets (ITNs) to children under 5 and pregnant women has greatly contributed to a reduction of the disease. The availability of the Global Fund against Tuberculosis and Malaria in 2007 has facilitated scale-up of the ITN and long lasting nets (LLINS) to all regions.

7. Wide coverage has been attained in the management of the six killer childhood diseases-Acute Respiratory Infections (ARI), Malaria, Neonatal Tetanus, Diarrhoea, Malnutrition and Meningitis. A national measles campaign was conducted with 95% coverage of children 9-59 months. A nationwide polio campaign was conducted in the Health Regions of the Country.

8. Measures are being taken to address the gender aspects of HIV/AIDS. A comprehensive National HIV/AIDS Strategic Framework 2009-2013 has been adopted to guide the national response to HIV/AIDS.

9. **Voluntary Counselling and Testing (VCT), Anti-retroviral therapy (ART),** services for prevention of parent to child (PPTCT), and treatment for infections are offered free of charge.

10. Between 2004 and 2008 the number of health facilities offering VCT/PPTCT has increased from 3 to 8. VCT is currently offered at 34 health Centres across the Country. All but one of the 16 Tuberculosis Centres now offers VCT services

11. Civil Society Organizations (CSO's), greatly compliment and supplement Governments efforts in the health sector. The Gambia Family Planning Association (GFPA) runs an MCH at its Headquarters. BAFROW runs the Well Woman clinics and provides counseling reproductive health services for women.

12. Home based care services supports feeding, clothing and scholarship through CSOs such as Hands on Care, GRCS and organisations of PLWHA such as Santa Yalla, Nyanaikiling and Mutapola. HIV/AIDS prevention activities are carried out by New World for Youth (NEWFOY), Nova Scotia Gambia Association (NSGA), Youth in Development and Change (YIDAC), Worldview The Gambia (WTG), Gambia Red Cross Society (GRCS), The Trust Agency for Rural Development (TARUD), NASSO and Soul Talk and Concern Universal.

13. Some of the Concrete measures noted by **UNAIDS** in the Gambia's fight against HIV AIDS include;

- Access to financial resources by women' organisations to scale gender sensitive HIV awareness creation during the HARRP. More than 50% of the CCSI beneficiaries were women's groups.
- The expansion of services for the control of Mother to Child Transmission of HIV
- Establishment of a Network of Women Living with HIV (MUTAPOLA)
- Scaling up of treatment, care and support services
- Issues concerning early marriage are addressed by many CSOs in the Gambia: GFPA, BAFROW, GAMCOTRAP, NSGA, FAWE-GAM and many others.
- Peer Education activities have been established by a number of NGOs (The Nova Scotia Gambia Association [NSGA], Youth in Development and Change [YIDAC], Worldview, GAMCOTRAP, BAFROW, The Girl's Guides Association, Youth Against AIDS Network (YAAN), among others).

- Increased representation of women's groups in all key policy making structures- National AIDS Council, Country Coordinating Mechanism, Divisional AIDS Committees
- Various studies have been conducted: sentinel surveillance, behavioural sentinel surveillance, socio-cultural study, KAPs with the view to further strengthening the national response
- The national Women's policy has been reviewed and HIV mainstreamed in the revised policy
- There has been an unprecedented increase in external resources and donor support to scale up and sustain the response to HIV. Notable among the key partners are the Global Fund and UN agencies. Civil society organisations have also mobilized resources from their traditional partners ,

2.1.2 Tuberculosis (TB)

Tuberculosis mostly affects the productive age groups (15 – 45 yrs) with a male to female ratio of 2:1. As a result of the HIV/AIDS epidemic, an increased number of TB patients are found to be infected with HIV, as revealed by the TB/HIV Surveillance System of the Ministry of Health.

Routine data compiled by the Ministry of Health at the end of year 2008 showed that out of 1,309 co-infected cases, 79% (937 cases) accepted testing for HIV. Further disaggregation of the data revealed: 77% males and 82% females acceptance rate for testing, for the HIV prevalence rate, 20% are males, 32% females and 25% for both sexes.

On the other hand, TB cases detection rate rose from 64% in 2006 to 78% in 2008, cure rate rose from 67% in 2003 to 78% in 2008 and treatment success rate rose from 67% (baseline) to 84% in 2008 respectively for both sexes. The current burden of TB in the country is unknown but a nationwide TB prevalence survey is being planned for support in the next round of the Global Fund.

A National TB Control strategic plan **(2009-2012)** and TB operational manual **(2007)** have been developed to provide policy guidelines and strategic direction for TB control and prevention in The Gambia. The Gambia is committed to the principles and elements of DOTS as highlighted in the Health Policy and the five

year TB strategic plan. The National TB Control Programme is being implemented through several strategic interventions as outlined in the National TB strategic plan.

The DOTS strategy has been implemented in The Gambia well before it was recommended by WHO as an effective strategy for TB control. This includes direct observation of treatment (**DOT**) both in the intensive and continuation phases at health facility and community levels where treatment is provided free of charge.

2.1.3 Malaria

The Gambia is engaged in a relentless battle against the killer disease of Malaria. This has been an ongoing and sustained combat as the disease still kills many. Several initiatives have been embarked on in this fight. In 2008, the “Roll Back Malaria Partnership” painted a very positive picture of some of the actions undertaken by the country. The Local Health Authorities embarked on a mass distribution of insecticide-impregnated mosquito nets and the introduction of new combined treatments to replace Chloroquine which has become less and less effective. To consolidate and harness the gains made under this initiative, qualified Health Workers were trained throughout the length and breadth of the country to better equip them with the necessary Skills to address this disease

Constraints

1. The indicators remain unacceptably high and threatening due to the following:
 - a. on-going attrition among professionally trained health workers (40 – 60%)
 - b. inadequate supply of essential and obstetric emergency drugs and basic equipments
 - c. weak referral systems and poorly functioning major health centres
 - d. inadequate funding for the maintenance of the high immunization coverage rate and incentives for the retention of trained health workers.

2. Socio-cultural beliefs may also prevent people from making use of available health facilities
3. The Gambia has not yet conducted a study that analyses the linkages between gender inequalities and the vulnerabilities or HIV risks for women and girls. Such a study would provide the much-needed evidence to inform programme interventions.³
4. Most programmes addressing girls vulnerabilities are heavily concentrated in the Western regions, there is thus need to ensure scaling up for geographical coverage.
5. The provision of adolescent-friendly clinical services is limited and considered a major challenge,
6. Early marriage, teenage pregnancy, sexual abuse and exploitations are equally major threats that can further increase the vulnerability of women to HIV infection
7. HIV related stigma and discrimination has been manifested in many settings with long-term negative impacts on women living with HIV. Disclosure of their HIV status has resulted in blame, abuse divorce.
8. Expertise in gender, socio-cultural and human rights analysis in policy and programmes is still limited. Although gender policy makers, planners and managers have received some gender training there is a need for capacity reinforcement in various aspects of their work including application of gender skills to the HIV and AIDS national response programme.⁴

³ UNAIDS 2008

⁴ UNAIDS 2008

2:2 COMMITMENT 2: Ensure Full Participation And Representation Of Women In Peace Process Including The Prevention, Resolution, Management Of Conflicts And Post Conflict Reconstruction In Africa

The Gambia though a fairly peaceful country, is however vulnerable to conflict due to its location as it is easily accessible to people from other countries who have experienced conflict and come to The Gambia to seek refuge. Recognising the adverse effects of conflict in nearby countries, the Government has brokered peace talks between some of its neighbouring countries in conflict.

Gambian women security personnel have participated in a number of peace-keeping missions both in and outside the region. This is an important requirement for UNSCR 1325 which calls on peace keeping operations to incorporate a gender perspective in all their work and the maintenance of gender equality at all levels of the entire mission. While The Gambian peace keeping missions have not been able to attain the UN Secretary General's target for 50% female representation at managerial and decision making levels of peace support operations, some senior women personnel have participated and two at the level of Colonel and lieutenant Colonel.

2.2.1 Achievements and Progress made

- 1.** The Vice President and Minister of Women's Affairs, (a woman), led the Gambia delegation, during the countries efforts at mediating and brokering peace between various factions in the recent crisis in Guinea Bissau.
- 2.** A West African Peace Building Network – Gambia Chapter, has been set up. The overall objective of WANEP-GAMBIA is conflict prevention, and changing crisis situations into more productive interventions. The Network has been actively engaged in the training of civil society organizations and teachers on peace building. WANEP works actively towards the ratification of International instruments on peace.
- 3.** The ECOWAS Convention on Small Arms and Light Weapons has passed the level of the Cabinet and is awaiting presentation for ratification by the National Assembly.

4. The capacity building activities of WANEP include the training of the members of the National Assembly's Select Committee on Defence and Security, including female members. They also train women on peace building and peace processes for the prevention of armed conflicts.

5. WANEP leads the consortium of Civil Society Organisations on election monitoring. This consortium has monitored the 2002 and 2006 Local Authority, National Assembly and Presidential elections country wide and has presented their reports to the Independent Electoral Commission (IEC). Free and fair elections are important aspects of democracy and contribute to maintaining peaceful societies.

6. The Gambia is signatory to the Statutes of the **International Criminal Court**, and an ardent supporter of the fundamental principles that the Court represents. The Government supported the candidature and appointment of a **Gambian lady** as the **Deputy Prosecutor** of the Court.

7. The Gambia played a key role in the establishment of a Network of Women's Organisations on Peace and Security in the ECOWAS Region (NOPWESCO) in Cote D'Ivoire in August 2009. The Network brings together women organizations in West Africa working in the area of peace and security to have a platform to share experiences and competencies, and to develop a common position on the maintenance of peace and security in the region. Currently WANEP -The Gambia is represented on the 8-member newly elected executive of NOPWESCO.

2.2.4 Constraints

1. There is need to increase the number of women in top decision-making positions in the security services.

2. Despite the increased participation of women in peace keeping missions abroad, The Gambia is far from attaining the 50% level required by the United Nations' Resolution.

2.3 COMMITMENT 3 Campaign for Systematic Prohibition Of The Recruitment Of Child Soldiers And Abuse Of Girl Children

The Republic of The Gambia is a signatory and has ratified The Convention on The Rights of the Child, and The African Charter on the Rights and Welfare of the Child. The Country has gone a step further by domesticating the provision of these two instruments on the rights of Children, through the enactment of **The Children's Act 2005**. This piece of legislation is quite innovative and comprehensive as it addresses all the concerns raised in the Declaration and other international legal instruments on the rights of children. The Act specifically addresses the unique situation of the girl child and expressly prohibits all forms of abuse against children.

2.3.1 Achievements And Progress Made

- 1** .The Enactment of the **Children's Act 2005** is a major innovation in The Gambia's stride towards promotion of the rights of the child and curbing the menace of abuse of girls.
- 2** . The establishment of a **Children's Court** in Kanifing in the Kombo Saint Mary Division of the Gambia provides a criminal justice system for Children.
- 3** . The establishment of a Special **Child Protection Unit** within the Police to handle matters relating to young offenders and victims.
- 4** . Several Civil society organizations collaborate closely with Government departments on issues relating to child protection.
- 5** . Following the launching of the study on Commercial and Sexual Exploitation of Children in 2004, a national plan of action was developed to address the issue and increase sensitisation campaigns regarding early marriage, sexual exploitation and related issues. The **Social Welfare Department** in collaboration with the **Child Protection Alliance (CPA)**, **University of The Gambia** and **SOS Herman Gmeiner** has conducted training up to diploma level for Social Workers. Sensitisation workshops are conducted for teachers, law enforcement agencies, nurses, social

workers, religious and community leaders as well as children to raise awareness on these.⁵

6. The Social Welfare Department has established a Shelter for abused Children and women.

2.3.2 Constraints

1. There is only one Children's Court situated in Kanifing in the Greater Banjul Area. This impedes access to the Court to all Gambian women and children. More financial resources need to be made available to ensure the full implementation of the Act and to ensure countrywide coverage or a decentralized structure for the Children's Court.

2. The Special Child Protection Unit of the Police Service, need to be adequately trained and resourced to enable active engagement of the unit in community outreach programmes.

3. Young girls are vulnerable to abuses related to high tourist presence in the country. The Gambia Tourism Authority in collaboration with the police has engaged in several initiatives to curb the menace of abuse of young girls in the tourism industry. However, a sustained and concerted effort of all stakeholders within the sector would be required to address this problem.

2.4 COMMITMENT 4: Sustained Campaign Against Gender Based Violence As Well As Trafficking In Women and Children

Having ratified both the CEDAW Convention and The African Protocol on The Rights and Welfare of Women and having subsequently domesticated them in the Womens' Act 2010 and the Children's Act 2005, the Gambia Government has committed itself to the prohibition of all forms of Violence Against Women and

⁵ CEDAW 4th Report, Draft, Office of Vice President

the Girl Child. Despite this commitment however, there remains to be enacted a specific law that addresses Gender Based Violence Specifically.

Notwithstanding the absence of specific laws on Violence Against Women, there are laws which are of general applications to both men and women and, if applied and implemented strictly and effectively, may have the effect of addressing the rights of women and to protect them from violence or gender related violence.

2.4.1 Constitutional Provisions

The Constitution of The Gambia specifically provides for women to be accorded full and equal dignity of the person with men as well as having the right to equal treatment with men, including equal opportunities in political, economic and social activities. (Section 28 (1) & (2)).

Sections 20 and 21 generally provide for the protection from slavery and forced labour and protection from inhumane treatment respectively. The definition of “Discrimination” under the Constitution includes discrimination based on “gender” (Section 33.) Section 27 of The Constitution provides for the Right to Marry, and specifically states that, “men and women of full age and capacity” shall have the right to marry and found a family. This provision may have the effect of prohibiting child and early marriage.

2.4.2 Criminal Code

The Criminal Code provides for traditional offences relating to sexual violence against women, like; Rape, section 121 whose maximum punishment in section 122 is life imprisonment. For attempted rape the punishment is 7 years section 124. Other non specific laws include murder, manslaughter, and common assault.

2.4.3 The Children’s Act 2005

This Act provides for matters relating to the rights and responsibilities of children and amongst other things, provides for a criminal justice system for children. The Act is quite an innovation as it seeks to protect young girls from all forms of harmful practices. The Act also provides for various sexual offences against children particularly the girl child as follows;

- Defilement Of Girls
- Abduction of girls under 16
- Indecent Assault
- Detention of Girls against their will with intent to carnally know her.

Apart from the above, The Gambia enacted the Anti-Terrorism Act 2002, which considers Rape as an act of terrorism.

2.4.4 Achievements And Progress made.

1. The Women's Act has provision prohibits all forms of gender based violence against women and young girls.

2. The Children's Act has comprehensive provisions prohibiting all acts of violence against children, including harmful traditional practices.

3. Government, through the Department of Social Welfare and the law enforcement authorities, have continued efforts to support victims, enforce the existing laws and actively involve traditional institutions in the fight against all forms of violence.

4. At the NGO level, for over two decades, the foundation for Research on Women's Reproductive Health Productivity and Environment (BAFROW) and Gambia Committee on Traditional Practices (GAMCOTRAP), in collaboration with Government, have developed programmes to address the vices of FGM and harmful traditional practices. These efforts have recently been complemented by TOSTAN which is a joint initiative of Government and UNICEF, and Wassu/Gambia Kafo.

5. A Consortium of NGOs on Violence against Women and Girls consisting of Action Aid The Gambia, Worldview, TARUD, GFPA, GRCS and Mutapola was set up in 2006 to create awareness on the extent of the problem and to advocate for support and resources to combat the problem.

6. **Female Lawyers Association (FLAG)** plays an advocacy role and provides legal aid in the form of free legal advice and representation to women and children in

general, including victims of violence etc. It has carried out community based sensitisation activities to inform and educate members of the public including school children of its roles and functions so that people know where to go and what to do when their rights have been violated. FLAG has also conducted a Capacity building workshops for law enforcement agents.

2.4.5 Constraints

- 1.** The absence of a specific legislation addressing Gender Based Violence remains a constraint; efforts to formulate and adopt a policy and legislation on the subject must be speeded up.
- 2.** The Constitutional provisions sanctioning the application of customary laws continue to provide justification for proponents and practitioners of harmful traditional practices.
- 3.** In spite of all the sensitization activities, FGM prevalence is still reported to be at 80 percent. What the intensive efforts have achieved is an openness to discuss this hitherto sensitive issue at all levels of society.
- 4.** Due to our socio cultural set up, early and forced marriages are still prevalent.
- 5.** Socio cultural perception of violence need to be addressed. There is a need to raise awareness on what constitutes violence.

2.4.6 Trafficking In Women And Children

2.4.6.1 Achievements And Progress Made

- 1.** The Gambia enacted the **Trafficking in Persons Act 2007**. This is a comprehensive piece of legislation that addresses, amongst other things, the menace of trafficking in women and children. The main purpose of the Act is to prevent, suppress, and punish those engaged in trafficking in persons, and to rehabilitate and reintegrate victims of trafficking.

2. A **National Agency against trafficking** is also established to ensure the implementation of the Act.
3. The police in collaboration with other law enforcement agencies, and the Judiciary have adopted a vigilant and zero tolerance stance towards the detection, prosecution and punishment of offenders.
4. The Social Welfare Department has been very vigilant in the securitization of adoption Applicants, especially where children are to be taken overseas after adoption.

Constraints

The major challenges faced in curbing trafficking in women and children in the Gambia are;

1. High tourist influx coupled with acute poverty which makes young girls and women more vulnerable.
2. The culture of silence makes as a stumbling block for the prosecution and punishment of offenders.
3. The need to raise awareness of the experience ie the challenges and the ordeals faced by the young girls and women taken overseas by offenders who pretend to be sponsors and benefactors for a better life overseas.

2.5 COMMITMENT 5: Promote The Gender Parity Principle At National and local Levels

The Women's Act 2010 provides that government shall take appropriate and practical measures to ensure increased participation/representation of women in the political and decision making process.

The 1997 Constitution recognises the right of women to participate in the political and public life. Similarly, policy decisions are also geared towards effective gender representation in all Government institutions and agencies as well as the private sector. This has registered more women who are actively participating in politics as elected and nominated candidates. Increasing number of women are also being appointed in key decision making positions.

Section 26 states that every Gambian citizen of full age and capacity has the right to take part in the conduct of public affairs, to vote and be voted for in public office and equal access to public service without unreasonable restrictions.

In addition, section 214(4) states that “in the composition of Government, women shall be fairly represented”. This section is under the chapter relating to the directive principles of state policy which only serves as policy guidelines and is not enforceable.

Government has made some strides in realizing this right but more still needs to be done because women are still in the minority in parliament and other public offices and need to be encouraged. The 30% target is yet to be obtained.

There had been positive improvements in the recent past, in the representation of women in the judiciary, with the appointment of more female high court Judges and magistrates. However the biggest challenges still faced by these judges and Magistrates include asserting their independence in the face of government interference and insecurity of tenure in that they are usually dismissed by procedures that do not comply with the Constitution.

2.5.1 Achievements

1. There is an increased number of women at top decision making levels. The Vice President of the Republic of the Gambia and Minister for Women’s Affairs, The speaker of the National Assembly, and other cabinet Ministers including Minister for Basic and Secondary Education, Tourism and others are all women.
2. A modest increase in the number of women in elected positions in both the National Assembly and at the local Government level.

2.5.2 Constraints

1. Despite the reasonable progress made, The Gambia is yet to attain 30% representation at all levels. The Target has been attained at the level of cabinet, but the representation at the National Assembly remains below the minimum required.

2. Socio-cultural beliefs and practices, like patriarchy continue to hinder the full acceptance of women and their participation in leadership positions.

2.6 COMMITMENT 6: Promotion and Protection of All Human Rights For Women And Girls Including The Right To Development

The Promotion of the human rights for women and girls are at the core of the 1997 Constitution of The Gambia. As indicated under Part 1 of this Report, the Constitution has several provisions geared towards enhancing and promoting human rights of women. The fundamental human rights provisions recognize women's rights as an integral and fundamental part of human rights. The Constitutional provisions are informed by the principle enshrined in the CEDAW Convention, which The Gambia has ratified as far back as 1992.

2.6.1 Implementation of International Instrument Addressing Human Rights of Women

The Gambia has ratified all the major International and Regional Instruments Addressing the human rights of women. The National women's policy-1999 to 2009 was based on the principles enshrined in the CEDAW convention and the Beijing Platform of Action. Recent initiatives to revise the National Policy for The Advancement of Gambian Women (1999-2009) and to adopt a new Gender policy is informed by the principles enshrined in the African Protocol on the Rights of Women and Declaration.

The **Women's Act 2010** is another national initiative to promote and further the human rights of women. Matters relating to the human rights of the girl child are adequately addressed in the **Children's Act 2005**.

As earlier highlighted in this report, the innovative provision in the Constitution is hindered by the constitutional provision relating to the observance and enforcement of personal law in the area of marriage, divorce, and distribution of property at death. These cover matters relating to customary and religious law

that affect the lives of over 90% of women in The Gambia. However several awareness campaigns by the national gender machinery and other civil society organizations are embarked on, on a continued and sustained basis to address this problem.

2.6.2 Citizenship and Nationality

Chapter III of the Constitution deals with citizenship of the Gambia. A person is accorded Gambian citizenship either by birth or by decent. In the case of the former, it applies to any person who is born in the Gambia and one of his parents is Gambian at the time of his birth while the latter applies to any person who is born outside the Gambia and one of his parents is a Gambian at the time of his birth. This provision gives equal right to a Gambian man and woman to give Gambian citizenship to his or her child.

Section 12A also provides that a Gambian who acquires the citizenship of another country may also retain his Gambian citizenship. This section therefore allows for dual citizenship. It provides additional protection to Gambian women who marry foreign nationals. Such women may acquire the citizenship of their husbands without losing their Gambian citizenship if the husband's national laws so permits. Similarly, the children can also acquire Gambian citizenship in addition to that of their father's. These constitutional guarantees are in line with articles 9 and 6 of the CEDAW and the Protocol respectively.

A non Gambian woman married to a Gambian man may also apply for Gambian citizenship by registration if resident in the Gambia for at least 7 years during or after the dissolution of the marriage. This creates an opportunity for non Gambian women married to Gambians to become citizens of the Gambia if they so wish even when the marriage is dissolved or annulled. Therefore the woman has discretion to choose to be a Gambian or maintain her other nationality.

Sections 37,38 and 39 of the Womens' Act gives the married woman the right to retain her maiden name, nationality and the woman equal rights with respect to the nationality of her children, respectively.

Section 29 also states that a child is entitled to nationality thus strengthening the protection for the girl child.

2.6.3 National Institution To Promote Human Rights

There are established several national institutions to strengthen human rights and access to justice, including women's rights. These institutions monitor the protection and promotion of human rights and administrative justice at the work place, and ensure speedy resolution of disputes and grievances in an informal set up. The main institutions are

1. The Office of the Ombudsman, and
2. The Alternative Dispute Resolution Secretariat.

The presence of the following regional Institutions and NGO in the country also gives an added impetus to strengthening human rights and access to justice.

1. The African Commission On Human And Peoples Rights
2. The African Center For Democracy And Human Rights in Africa
3. The Institute For Human Rights And Development in Africa

2.6.4 Achievements

1. The Fundamental Human Rights Provisions of The Constitution of The Republic of The Gambia is linked with best practices for the protection of such rights.
2. The Constitution expressly recognizes and protects the Human rights of Women and expressly prohibits discrimination based on Gender.
3. Both the Women's Act and the Children's Act specifically guarantee the protection and promotion of rights of women and children.

2.6.5 Constraints

1. The limitations in the Constitution act as a stumbling block in the realization of the full enjoyment of human rights for women.

2. A sustained sensitization and awareness raising campaign is needed to ensure a change in attitude and behavior of both men and women to ensure that women enjoy their full fundamental human rights and freedoms.
3. There should be a comprehensive review of all the laws and policies of the Gambia to ensure compliance with all international and regional instruments that guarantee the full enjoyment and protection of the human rights of women.

2.7 COMMITMENT 7: Promote The Implementation Of Legislation To Guarantee Women's Land, Property and Inheritance Rights, Including Their Rights To Housing

In the Gambia, inheritance is a matter for personal and customary law. As a result the inheritance rights of a woman are determined by her personal law. This could be Sharia law for Muslims, and the general law for Christians, and customary law for persons who are traditionalist. There is no specific legislation in The Gambia that guarantees women's Inheritance rights.

Furthermore, there is very limited constitutional protection for enforcement of socio economic rights in the Gambia. The realisation of the above mentioned rights are found under the Chapter dealing with the directive principles of state policy which only serves as a guide to policy making and thus are not enforceable in a court of law. However, there are established schemes and programmes both within the Government and other bodies aimed at eradicating poverty, particularly amongst women in the Gambia. But these alone will not suffice; well defined plans and programmes must be put in place to progressively realise these economic rights of women. Formal and informal education of women particularly in the rural areas will also have a positive impact on the realisation of these rights.

There is also no specific legislation that guarantees women access to land, property and housing. However the housing scheme under **the Social Security and Housing Finance Act**, seeks to guarantee all citizens, including women, access to affordable housing. The Scheme started by addressing the needs of the

vulnerable and low income earners, and has now moved to ensuring access to premium and valuable housing on a mortgage basis.

The State Land's Act 1991, provides for granting of leases over state lands. Under this legislation women are equally as eligible as men for such a grant. However, the Act does not address the special needs of women.

Under customary law, women's access to customary land is very limited in that they have user rights and no ownership rights. This limits women's access to credit and other financial benefits from the formal banking sector, due to the lack of the necessary security or collateral in the form of ownership of landed property.

Achievements

1. The Judiciary recently embarked on intensive training programmes for Cadi's (Islamic Judges), and other practitioners in the Islamic courts to ensure that they are adequately equipped to interpret the applicable law consistently and equitably.
2. The national policy framework for the eradication of poverty in The Gambia ((PRSP II), inter alia, aims at empowering local communities and women to influence and share control over priority settings, resource allocation and implementation to achieve the overall goal of the policy. Implementation of this goal should address the gender inequalities in relation to control over resource allocation, including land and other essential resources.

Constraints

1. Law reform relating to customary and religious laws has always been a very difficult and mammoth task, and have always been received with great resistance by all stakeholders including men and women.
2. Lack of knowledge of personal law and qualified personnel to preside over sharia cases remains a challenge.

COMMITMENT 8: Measures To Ensure the Education of Girls and Literacy of Women, especially In The Rural Areas, To Achieve The Goal of “Education For All”

The Constitution guarantees the right to equal educational opportunities and facilities of all persons. To that effect, it provides that basic education shall be free, compulsory and available to all. Secondary education shall be generally accessible to all and higher education shall also be accessible to all based on capacity with a view to progressively realising free education for all at all levels. There is also an affirmative action to provide equal opportunities for education of the girl child. This includes enrolment and retention of the girl child in school. This constitutional right conforms to international instruments such as CEDAW, the African Protocol, and the Declaration, as well as the Women’s act 2010 and the Children’s Act 2005 but the reality on the ground is that girls’ retention in schools is still low and access to higher education is still a problem for them.

The ultimate objective is to eliminate poverty, enhance quality of living and nurture a learning society.

The Education Policy lays special emphasis on gender and increased equitable access to basic, senior secondary, tertiary and higher education. It also focuses on enhancement of access to early childhood development centres and literary programmes, with specific emphasis on girls in under-served regions and other disadvantaged groups in the population. Emphasis is also laid on equity in the geographical distribution of schools and community needs with the focus on the elimination of gender disparities. It prescribes that government should mainstream gender concerns at every stage of the education process towards the realization of the EFA gender parity and equity goals within the policy period.

2.8.1 Achievements

1. According to the Ministry of Basic and Secondary Education statistics, between 2000 and 2008, gross Enrolment Rates for the Upper Basic and Senior Secondary levels have increased significantly from 61% to 92% and 18% to 36% respectively. Furthermore, the share of enrolment for girls at the upper basic and senior

secondary levels for the same period increased from 38% to 58%, and 13% to 33% respectively. In terms of completion rates, there has been an appreciable level of increase for girls at Upper Basic and Senior Secondary levels and for transition rates showing an increase from 69% to 82% and 51% to 68% respectively over the same period.

2. The Education Policy (2004-2015) “Rethinking Education for Poverty Reduction” and the Education Sector Strategic Plan (ESSP) 2006-2015 address critical areas such as expansion of access to quality basic and secondary education, girl’s education, early childhood development, (ECD) science and technology, sector management, among other areas. Other important policies developed during this period include the Draft Sexual Harassment Policy (2005) and the Special Needs Education Policy Framework, 2008.

3. Minimising the costs of schooling: Girls education is tuition free in the public schools up to Grade 9. The scholarship Trust Fund and the President’s Empowerment of Girls Education Project (PEGEP) has expanded and is supplemented by other initiatives and incentives of various types, including special scholarship packages for girls who excel in mathematics and the sciences.

4. The Child Friendly School Initiative supported by UNICEF promotes inclusion and responds to diversity by promoting gender equality in enrolment and achievement and eliminating gender stereotypes. It provides a healthy and protective environment for children through the provision of adequate water and sanitation facilities free of corporal punishment and harassment and creates positive experiences for children. It promotes child-centred learning and encourages family and community-based local partnership in education.

5. Equal gender participation in school management is being promoted. The “Gender Education Unit’ previously the Girl’s Education Unit is being strengthened to better coordinate, document and monitor programmes for effectiveness and efficiency.

6. A National Policy on Non-Formal Education 2010- 2015 is soon to be adopted by Government. The envisaged vision of the Draft policy is “A society in which the majority can read and write using all possible forms of scripts and indigenous languages as well, for social transformation and economic growth.

7. The Adult and Non Formal Education Unit of the Directorate of Basic and Secondary Education, at the Ministry of Basic and Secondary Education, is responsible for the overall coordination of Adult Learning Education programmes in The Gambia. Literacy provision is decentralized and programmes are outsourced to providers according to a set of eligibility criteria. These providers are either Non Governmental Organisations or Community Based Organisations.

8. Non-governmental organizations have formed partnerships with the government to significantly influence growth through non-formal education programmes that target Women who form the majority of non-literates.

9. The interventions and activities geared towards mainstreaming gender has resulted in a steady increase over the years in enrolment, retention and performance of learners especially girls across all levels of education. In addition, non literates are given a second chance. These interventions have been geared towards the creation of the enabling environment for girls to compete with boys and men with women with the ultimate aim of eradicating poverty and developing the nation.

Constraints

1. The Retention of girls at the upper basic, senior secondary and tertiary levels still remains a challenge due to a number of factors including early and forced marriages, teenage pregnancy, poverty, and preference for continued education of boys at the higher level.
2. Adult education programmes remain donor driven and funded, and once projects come to an end, sustainability becomes a problem.

Conclusion

Although The Gambia has made great strides in ensuring the protection and promotion of the rights of women and children as well as striving to achieve

gender equality and women empowerment, as already highlighted above under the challenges/constraints, we dare say a lot more remains to be done if we are to achieve the high standards in all aspects of life that women and children so truly deserve.

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