

UNCT-THE GAMBIA'S CONTRIBUTION TO THE SECOND CYCLE OF THE UNIVERSAL PERIODIC REVIEW (UPR) OF THE UN HUMAN RIGHTS COUNCIL.

This note will focus on the UNCT's support for the implementation of some of the recommendations accepted by The Gambia from the previous UPR in March 2010.

I. Background and framework

A. Scope of international obligations

Despite the fact that the Government supported UPR recommendations encouraging the ratification of the CAT, OP-CAT, ICCPR-OP2, OP-CEDAW, ICMW, CED, CRPD, OP-CRPD, OP-ICESCR and the OP-CRC-AC, they have not yet been ratified at the international level.

There are a number of treaties that the Government of The Gambia is yet to ratify at the international level. These include the CAT, OP-CRC-AC, CRPD, the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. It is probable that these treaties have been ratified at the national level, but not at the international level. Ratification at the national level is inadequate to establish a State's intention to be legally bound at the international level. The required action at the international level, i.e., the deposit of the instrument of ratification, must also be undertaken. An instrument of ratification, acceptance, approval or accession becomes effective only when it is deposited with the Secretary-General of the UN in New York.

B. Constitutional and legislative framework

See information below in section III "Implementation of international human rights obligations, taking into account applicable international humanitarian law".

C. Institutional and human rights infrastructure and policy measures

Citizen's awareness of the role/services of the Office of the Ombudsman improved through a series of sensitization campaigns at community and institutional levels. It has been proposed that Government adopts best lessons learnt from Ghana and merge the Office of the Ombudsman and the Human Rights Commission (i.e. a Commission on Administrative Justice and Human Rights), in light of the limited resources available and the size of the country.

Following Government's acceptance of 2010 UPR recommendations on the establishment of a National Human Rights Commission, a draft Bill for the establishment of a National Human Rights Commission (National Human Rights Commission Bill) was validated by key stakeholders with support from the Commonwealth Secretariat on 22nd August 2013. Substantive comments from UNDP and OHCHR on ensuring the draft Bill is consistent with the Paris Principles were submitted to the Ministry of Justice for incorporation. Currently, the draft Bill with stakeholders' comments has been sent to Cabinet for review and approval, before it is tabled in the National Assembly for enactment. There are no indications yet on when the draft Bill will be sent to the National Assembly.

To further advance the human rights agenda, trainings were provided to media practitioners on human rights instruments. Informed public participation and community empowerment received priority through the development and adoption of a Human Rights Based Approach Training Manual for use by local government authorities. Sensitization was conducted for senior secondary schools in all seven regions on human rights and citizen participation. The Ministry of Education will be supported to integrate human rights studies in the school curricular.

In order to widen space for public participation, local government authorities in the two poorest regions (West Coast and Central River Regions) were trained in citizen engagement and social audit. A policy dialogue platform has been institutionalized by CSOs to ensure their effective participation in national dialogue and decision making on governance, whilst 25 CSOs were trained on effective partnership building and development evaluation.

The National Council for Civic Education was supported to carry out nationwide civic education campaigns on the 2013 local government elections and newly elected councilors were trained on the main provisions of the Local Government Act and on human rights.

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

Following a training seminar on UN treaty body reporting for state and non-state actors provided by OHCHR, a National Task Force on UN Treaty Body Reporting was set up and the following reports were prepared and submitted: Economic, Social and Cultural Rights (May 2012); Fourth and Fifth periodic report to the Committee on the Elimination of Discrimination against Women (October 2012); and the Second and Third periodic report to the Committee on the Rights of the Child (October 2011).

Nonetheless, The Gambia still has a significant backlog of outstanding subsequent reports that are due, particularly to the Committee on Civil and Political Rights and to the Committee on the Elimination of Racial Discrimination. Proposed plan in 2013 to reduce the number of overdue reports by submitting reports to the Committee on the Elimination of All Forms of Racial Discrimination and the Committee on the Civil and Political Rights was not implemented.

The National Task Force on UN Treaty Body Reporting needs to be re-vitalized so that it can take advantage of opportunities for technical and financial support from the UN to meet its reporting obligations.

CCPR	CESCR	CERD	CEDAW	CRC	OPSC
Report II due since 1/12/2002	Report I submitted 09/05/2012	Report II - XIV due since 2006	Report IV submitted 01/10/2012	Report II-III submitted 28/10/2011	Report due since 08/04/2012
	To be considered during the 53 Pre-Sessional Working Group (May 2014)		To be considered during the 61 Session (June / July 2015)	To be considered during the 68 Pre-Sessional Working Group (June 2014) and the 68 Session (January 2015)	

B. Cooperation with special procedures

The Gambia does not have an open standing invitation to Special Procedures Mandate holders, although it supported UPR recommendations to do so.

A mission in 1999 by an ACHPR Special Rapporteur is an indication of the Gambia’s commitment to cooperate with special procedures, however, there have not been any visits by special procedures mandate holders during the period under review.

OHCHR’s commitment to assist The Gambia in the investigation of the death of journalists DeydaHydara and Chief EbrimaManneh had been reiterated during several follow up missions undertaken by OHCHR WARO. On 3 March 2014, the Permanent Mission of the Republic of The Gambia to the United Nations Office in Geneva sent a note verbal to OHCHR informing that the Government is giving favorable response to the requests made by the two Special procedure mandate holders, namely: the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and the Special Rapporteur on the question of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The favorable response and the subsequent visit of the two mandate holders would be the beginning of the assistance to the government in its request to investigate on the two cases.

C. Cooperation with the Office of the High Commissioner for Human Rights

The West Africa Regional Office of OHCHR maintains a very positive and constructive working relationship with the Government of The Gambia. From 2010-2014, the office has conducted regular missions to the country and has been able to provide technical assistance and implement capacity building and sensitization activities, in cooperation with other members of the UN Country Team, most notably UNDP and UNFPA. OHCHR's activities during the period include a training on reporting for state and non-state actors in 2011; report on ICESR in collaboration with UNDP in 2012; National Action Plan on UNSCR 1325 in 2013; Ongoing National Action Plan for UPR recommendations; and a Human Rights Based Approach training for UNCT and its national partners (State and CSO) in 2013.

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

Non-discrimination, in particular against women was accorded national priority through the enactment in December 2013 of 2 National Assembly Bills: the Domestic Violence Bill and the Sexual Offenses Act. Recommendations from a review of the Adequacy of Laws and Policies on Gender Sensitivity will be used to mainstream gender in all sectoral programmes, policies and laws. Prohibition of Female Genital Mutilation (FGM) is not included in the two bills. Although, UPR recommendations on criminalization of FGM have not yet been accepted by the Government of The Gambia, there is a strong national advocacy by the CSO/NGO community for eradication of FGM.

Nationwide sensitization led to the development of a Communication Strategy on Wife Beating and there has been increased community confidence in reporting Gender Based Violence (GBV) cases. With the incorporation of GBV in the Police training curriculum, Police Child Welfare and Gender Officers are now more equipped to address and manage GBV cases.

In accordance with UN Security Council Resolution 1325, The Gambia has developed an Action Plan on Women, Peace and Security, which has already been rolled out through a series of nationwide advocacy campaigns. With increased awareness of the health complications of FGM/C (31800 people trained on health and reproductive health), there has been increased public declaration of abandonment of the practice in 372 villages. Nonetheless, the practice is not yet prohibited by law.

Institutional capacities of the Women's Bureau and the Office of the Vice President and Ministry of Women's Affairs have been further enhanced through tailor-made trainings on Monitoring and Evaluation, Results Based Management and the development of an M&E Gender tracking tool.

Women's participation in the public sphere at all levels remains a challenge as evidenced in the 2013 Local Government elections which showed no significant change in the number of women councilors. Only 9.2 percent of the members of the National Assembly are women.

A National Task Force on Social Protection was established under government leadership, thus creating a forum for collaboration among key stakeholders on social protection. Support provided for social protection analyses, mapping and social sector public expenditure review generated evidence for the formulation of a social protection policy to support PAGE implementation.

At the UPR in 2010, the Government rejected recommendations on Human Rights Defenders and on discrimination based on Sexual Orientation, with zero tolerance on homosexuality, which is considered a "threat to humanity" in a statement made by the President at the UN General Assembly in September 2013. In the 49th Independence Anniversary statement of the President on 18th February, 2014, he stated that "Homosexuality will [...] attract the ultimate penalty since it is intended to bring humanity to an inglorious extinction. We will fight these vermins called Homosexuals or gays the same way we are fighting malaria-causing mosquitoes; if not more aggressively. We will not accept any friendship, aid or any other gesture that is conditional on

accepting Homosexuals or L.G.B.T. as they are now baptized by the powers that promote them.” He said that "Gambia will not spare any homosexual and therefore no Diplomatic Immunity will be respected for any Diplomat who is found guilty or accused of being a homosexual."¹ A man committing in public or private “any act of gross indecency”, having sexual contact with another man, can be imprisoned for a 5 to 14 year period.

B. Right to life, liberty and security of the person

C. Administration of justice, including impunity, and the rule of law

Support to judicial sector reforms were continued mainly through access to justice by the poor. Quick, efficient and accessible dispensation of justice was enhanced through support to two regional Alternative Dispute Resolution Centres and one regional Legal Aid Centre. A comprehensive database and website were also established and are improving case management and reporting. Advocacy and training on access to justice was expanded through community based sensitization and training of district tribunals on legal aid services, using paralegal teams trained at the Law faculty of the University of the Gambia. Furthermore, the judicial sector now has a structured and coordinated curriculum for community mediators following the preparation and adoption of a Training Manual on Alternative Dispute Resolution institutional strengthening of the Judiciary (Office of the Chief Justice) that was done through implementation of short-term measures that have reduced backlogged cases, the updating/revision/introduction of court rules, operational manuals and procedures to ensure efficiency in justice delivery and training to improve the management and leadership skills of magistrates. Training provided to 160 police officers, nationwide sensitization and provision of bicycles will further strengthen community policing capacity and improve relations between the community and the police.

The Governance Indicators from the World Bank indicate that corruption is emerging as a serious problem in The Gambia.² A number of people have been prosecuted on charges of corruption and the President has expressed the Government’s commitment to zero tolerance on corruption. An Anti-Corruption Act was passed by the National Assembly in 2012. With this Act in place, the UNCT now has a basis to work closely with the Government and other stakeholders to strengthen national capacities, institutions and systems to fight corruption. A key element of support will focus on enhancing the participation of civil society and the media.

D. Right to privacy, marriage and family life

The Right to privacy, marriage and family life are not interfered with and there are several nationwide campaigns by community and religious leaders to stop early marriages.

E. Freedom of movement

There are no restrictions on freedom of movement.

F. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

Freedom of expression is enshrined in the 1997 Constitution and the Information and Communication Act was passed by the National Assembly in 2009. However, several provisions in the laws governing media are incompatible with international standards and the situation has not improved during the period under review. Amendments to the 2009 Information and Communications Act, passed by the National Assembly on 3 July 2013, penalizes those who spread “false news or information” against the government on the internet with prison sentences of up to 15 years or a fine of approximately USD 100,000. The Act criminalizes whoever spreads “false news”

¹ Articles on several media websites report on the speech, amongst them The Point Newspaper (<http://thepoint.gm>). A short article is also published on the Government State House website (http://www.statehouse.gm/On-Independence-day-Jammeh-calls-onGambians-to-Jealously-Guard-Peace-Stability-in-Gambia_18022014.htm).

² Worldwide Governance Indicators: <http://info.worldbank.org/governance/wgi/index.aspx#countryReports>

about the government or public officials, caricatures or makes derogatory statements against public officials, or incites dissatisfaction or instigates violence against the government.

Discussions on improving relations between the press and the Government are on-going. Meanwhile, capacities and professionalism of media practitioners in advocating for the MDGs and Human Rights are being strengthened through a series of training programmes on gender, ethics and human rights.

Three media bans have been in effect for more than 16 months. Two of them a daily newspaper and a community radio, were allowed to re-open at the beginning of 2014 raising hopes for a new rapprochement between the press and the Government. However, a ban on one of the main newspapers (the Daily News) remains.

The law provides for freedom of assembly, but requests for permissions for demonstrations must be approved by the police.

The NGO decree has not yet been sent to Parliament for transformation into an Act. Integration of suggestions and comments made by key stakeholders could improve the NGO environment and ensure compliance with freedom of association principles.

G. Right to work and to just and favourable conditions of work

See Section H below

H. Right to social security and to an adequate standard of living

The Gambia remains a least-developed and low-income food-deficit country. The country has high poverty and low human development: 48.4 percent of the population live below the national poverty line, and it ranked 165 out of 186 countries in the 2013 HDR.

MDGs have been integrated into The Gambia's development frameworks, but attainment of the MDGs calls for concerted efforts and action as well as renewed partnerships with development partners. Overall, The Gambia is lagging behind on MDG 1 (Eradicating extreme poverty and hunger) and MDG 5 (improve maternal health). Despite the slow progress registered for MDG 4 (childhood mortality) and MDG 5 (improve maternal health), improvements have been made on both and other MDG targets particularly on the proportion of households with improved sanitation facilities, access to potable water, the proportion of children under 1 immunized against measles, access to basic education and gender parity in primary education.

Upon request from the Government and as part of UNCT efforts to support the Government's ability to formulate and implement evidence based pro-poor policies, the MDG Acceleration Framework (MAF) on one of the lagging MDG targets, i.e. target 1C-halving the number of people living below the minimum calories intake was formulated late last year. The MAF document is being printed for advocacy and resource mobilization for its implementation. The EC, under its MDG Initiative is collaborating with the FAO and WFP on a project launched last year, to improve food security through crop production intensification and school feeding programme.

In addition to the formulation of the MAF, other policy frameworks for pro-poor and inclusive growth were enhanced by the finalization of the draft Debt Bill, development of a National Aid Policy and Action Plan which created the framework for donors to report on the amount and allocation of resources for the PAGE and MDGs.

The combined effects of the 2011/2012 food insecurity crisis, persistent high malnutrition rates, heavy flooding in July/October 2012, and an outbreak of CBPP in late 2012/2013 have eroded vulnerable households' coping mechanisms and resulted in protracted food insecurity in some areas. Despite a recovery in cereal production in the 2012/2013 harvest and projected increases in 2013/2014, access to food continued to be constrained by high food prices and the lingering effects

of the food insecurity crisis, with 15 percent of households face food insecurity, of which 5.5 percent suffer from 'moderate' or 'severe' food insecurity.³

Government contribution to the agricultural sector has increased from 6 percent in 2013 to 7 percent in 2014. Notwithstanding, the percentage of households that are food insecure increased from 11 percent in 2011 to 37 percent in 2013 (attributed to natural disasters, crop failure, and the Contagious Bovine Pleuropneumonia (CBPP) outbreak. Value addition projects with women's groups were implemented through the sustainable use of natural resources, provision of reliable solar powered water supply system and expanded farm area from 1 to 3 hectares for vegetable farming that enabled 500 women members from 12 surrounding villages to access and own 40m² land each. Water supply system provided with solar driven pumping system and installation of a new machine for a processing plant benefitted 110 women. Modernization of the fish processing industry particularly for women complemented by training in operating the modernized systems, Oyster processing and procurement of packing equipment, construction of 15 processing sites constructed and training to 150 women and youths further expanded rural livelihood opportunities.

The Nutrition status of the under-five population has deteriorated over the last five years and is expected to intensify in 2014. According to the 2010 MICS IV, the prevalence of wasting (weight for height) among children under five increased from 6.4 percent in 2005 to 9.5 percent in 2010, and has further increased to 9.9 percent in 2012. Stunting (chronic malnutrition) rates among children under five increased from 22.4 percent to 23.4 percent for the same period, but slightly decreased to 21.2 percent in 2012, according to the SMART Survey. The estimated burden of moderate acute malnutrition is currently estimated at 48918, while severe acute malnutrition is at 8640 children.⁴

The exact figure of people in crisis cannot be ascertained due to lack of verifiable information. However, according to the Humanitarian Needs Overview 2013, it is estimated that 291454 people are in need of either humanitarian support or assistance to strengthen their resilience to crises. The capacity of relevant Government institutions to respond to humanitarian crisis remains limited in most areas. Overall coordination at the strategic level is led by the National Disaster Governing Council, under the leadership of the President.⁵

I. Right to health

Refurbishment of Soma Health Centre Theater and provision of equipment, drugs and an ambulance facilitated provision of EMOC have significantly reduced the number of referrals to hospitals. The Soma Health Centre is now performing caesarean operations for the first time and training of 80 health care providers on EMOC will further enhance their skills in managing pregnancy complications.

The PMTCT Elimination Plan for 2014 was developed and 40 health workers have been trained on the provision of PMTC services in Upper River and West Coast regions. Training manuals for the Village Health workers and the traditional birth attendants were revised to incorporate emerging health issues.

As an obligation to protect the health of the population well as people's right to health, The Gambia did not only ratify the International Public Health Treaty in 2007 -WHO Framework Convention on Tobacco Control - but it is now progressively implementing it through the support of the World Health Organization.

Inadequate access to basic social services such as health, safe and clean water, basic sanitation and hygiene aggravates high prevalence of childhood diseases. Access to primary health care services is also inadequate in a number of villages. Public Health Centers are not functioning optimally due to several factors such as ineffective village development committee, lack of support for community health workers, shortage of drugs, weak linkages with basic health facilities, minimum supervision

³ 2014 Humanitarian Needs Overview, UNOCHA website

⁴ Ibidem

⁵ 2014 Humanitarian Needs Overview, UNOCHA website

and inadequate demand for sustained preventive health services in the general population, particularly for services requiring multiple follow-up contacts or visits to health facilities.⁶

Uniform coverage of sanitation and access to clean water, which are the main causes of water-borne diseases, remain a challenge. Though the under-five mortality has decreased from 131/1000 live births to 109/1000 live births over a period of five years (MICS 2005 and 2010), children continue to die, particularly in the rural areas, due to diseases related to water, sanitation and hygiene. According to the MICS 2010, 85.8 percent of the population is using improved water source for drinking, while 76.3 percent is using improved sanitation facility. However, there are serious disparities and vulnerabilities. Water and sanitation related-deaths represent 20 percent of under-five (U-5) deaths. Despite the reduction in the incidences reported over the years, cholera and meningitis continue to be a major public health concern.⁷

Health service delivery continues to face varying challenges, including but not restricted to the following factors: Inadequate human resources and poor distribution of skilled staff, inadequate equipment, limited resources (basic essential medicines and supplies), inadequate access to tertiary basic health facilities with Basic Emergency Obstetric Care, malaria is shifting from <5 to 14 years and above, increased burden in non-communicable diseases and risk factors, health seeking behavior of the population, low enumeration of health staff, inadequate accommodation for health staff, inadequate/lack of electricity and water supplies in most of the facilities and poor environmental sanitation. Whilst basic health services are available, the quality of health service deliveries are not to the reach of the most vulnerable population.⁸

J. Right to education

The Gambia has met MDG2 targets on primary school enrolment and gender parity at basic education. In the poorest regions (Upper River, Central River-North and Lower River regions), the Gross Enrolment Ratio (GER) rose from 56percent in 2012 to 60.2percent in 2013. For CRR and URR, it rose from 81percent (2012 EMIS) to 85.6percent in 2013. Completion rates increased from 24percent in CRR and 18percent in URR (CSR 2010) to 39.3percent and 48.3 percent respectively in 2013.

National Assessment Test (NAT) grade 3 results indicate that in 2013, 67percent of the children performed above minimum competency level (> 40percent mark) in Mathematics, an increase of 26percent above the 2012 performance rate of 41percent, with CRR and URR at 30percent and 29percent respectively.

The percentage of qualified teachers increased from 79.4percent in 2012 to 89.4percent in 2013, thus improving the pupil/teacher ratio from 1:48 in 2012 to 1:43 in 2013. Additionally, the planning units of Ministry of Basic Education and Ministry of Higher Education received technical support in planning and developing the Education sector policies and strategic plan, 2012-2022.

High cost of education, which includes the cost of school supplies and school uniforms, limits access to schooling. The Government has recently introduced the School Improvement Grant, which took off some costs from parents. The full impact of the intervention is yet to be assessed.

Improved school resources, particularly in terms of teaching, learning materials and facilities, access to water and sanitary facilities, could enhance the learning environment and enrolment.

⁶Ibidem

⁷Ibidem

⁸Ibidem

The high dropout rate from school is a serious concern as it affects survival rate of schooling, which is only 75 percent at lower basic and 60 percent for the whole basic cycle.⁹

K. Cultural rights

Cultural rights of all groups are widely respected.

L. Persons with disabilities

National Assembly adopted in July 2013, without reservation, the UN Convention on the Rights of the People Living with Disability, following strong advocacy from key stakeholders including very active civil society actors. The Convention was translated in 3 national languages and disseminated nationwide. The ratification is currently only effective at the national level. In order for the ratification to be recognized at an international level, it should be deposited with the Secretary-General of the United Nations at United Nations Headquarters in New York.

M. Minorities and indigenous peoples

N. Migrants, refugees and asylum-seekers

The Gambia is a refugee-receiving country having signed and ratified the Convention relating to the Status of Refugees and domesticated it in its national laws. Over the last four years, the protection status of refugees has considerably improved with the introduction of the Refugee Act (2008). The establishment of the Gambia Commission for Refugees in 2010 and the near universal coverage of the population with identification documents have enhanced their overall mobility, access to basic services and protection of fundamental human rights. However, local integration and the pursuit of sustainable livelihood activities remains hampered by incomplete access to and very limited ownership of land for housing, farming or gardening activities. The Gambia Immigration Department and the Commission for Refugees receive support from UNHCR.

The recent Joint Assistance Mission (JAM) Report concluded that at least 8325 people still live as Senegalese refugee households in The Gambia. Most refugees are from the Casamance region. The report indicated that up to 84 percent showed signs of food insecurity and vulnerability. Only half of the households are able to meet the minimally adequate food consumption needs. The proportion experiencing moderate or severe food insecurity and/or engaging in damaging coping strategies is at an alarming 39 percent.¹⁰

The Gambia has not yet fully comply with the minimum standards for the elimination of trafficking, but it is making significant efforts to do so. Fighting THB is increasingly important in the Gambia's political agenda. In recent years, the government has taken important steps towards its elimination. In 2007, it passed the Trafficking in Persons Act, prohibiting all forms of trafficking. Its 2010 Amendment increased the prescribed penalty to 50 years to life imprisonment for all forms of trafficking.¹¹

An Act Against Trafficking in Persons was passed in 2007 and a National Agency Against Trafficking in Persons (NAATIP) established in 2011, but its operations are hampered by capacity constraints. A plan of action to combat trafficking in persons running from 2008 to 2011 was formulated, but was not implemented due to lack of resources and has been fully integrated into the current NAATIP plan of action (2012-2016).

O. Internally displaced persons

In 2011, Gambia ratified the African Union Convention on Internally Displaced Persons.

P. Right to development and environmental issues

⁹Ibidem

¹⁰Ibidem

¹¹Ibidem

There has been a growing awareness on the role played by the Early Warning System/Service in reducing local risks, facilitating coping and adapting strategies to the impact of extreme weather events. A wide variety of warning measures have been established and piloted in food security, surveillance of diseases outbreaks, nutrition situation and climatic hazards and risk. However, these sector-wide warnings need to be implemented as part of an integrated Early Warning System/Service that can steer the Gambian communities towards future disaster resilience. To do so requires understanding and continuous monitoring of the local hazards, risk and evolution of vulnerability processes.¹²

Previous reports on disaster risk reduction and climate change adaptation recognize demographic, economic, land use, technological, behavioral change on nutritional food intake and extreme weather impact as drivers that could shape the future of the sustainable development process in the Gambia.¹³

According to the International Institute for Environment and Development, The Gambia is top on the list of 100 countries that are most exposed and vulnerable to the effects of climate change, especially weather related hazards such as drought, windstorms and floods.¹⁴ As part of the Regional Sahel Integrated Strategy, the UN System has supported the Government to develop a Strategic Response Plan to provide humanitarian assistance to the most vulnerable population, strengthen institutional capacity to anticipate and manage disasters, and to build resilience.

¹²2014 Humanitarian Needs Overview, UNOCHA website

¹³Ibidem

¹⁴Ibidem