



# **Economic and Social Council**

Distr.: General  
6 November 2013

Original: English

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Committee on Economic, Social and Cultural Rights

## **Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights**

**Initial reports of States parties due in 1990**

**Gambia\***

[9 May 2012]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been formally edited.

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## **I. Introduction**

1. The Committee considered the state of implementation by The Gambia of the economic, social and cultural rights contained in the Covenant at its 23<sup>rd</sup> meeting on 18<sup>th</sup> May 1994, in the absence of an initial report from The Gambia, and made some concluding observations. The Gambia regrets its failure to fulfil its reporting obligations under articles 16 and 17 of the Covenant, and is grateful to the Committee for, in its concluding observations, highlighting principal subjects of concern, some of which have been overtaken by events and developments since 1994.

## **II. Responses to principal subjects of concern of the Committee (E/1995/22, paras. 198–203)**

### **A. Income levels of females – Articles 6 to 9**

2. 52% of those employed in The Gambia are men. The formal sector of The Gambia, consisting mainly of the civil service, employs about 20% of the labour force and women constitute 21% of the civil service, which is generally biased in favour of men as education is a prerequisite and women generally have low levels of education. This situation is however changing as more girls and women are given increased access to education through affirmative policies and actions such as The President's Empower of Girls Education Project (PEGEP); but there is no discrimination in wages when women have the same qualifications as men and are doing the same job. In fact, affirmative action recruitment policies indicate a preference for female candidates. The Ministry of Basic and Secondary Education has recently, in collaboration with an Ngo, Concern Universal, undertaken the training of women and girls in technical and vocational areas traditionally considered the preserve of men. Following a review in the mid-nineties of policies and regulations containing discriminatory clauses concerning the provision of allowances and number of dependents in favour of male employees, all such provisions have been removed and the allowances and number of dependents have been standardized to benefit both men and women equally. Additionally, Part V (Sections 16 to 25) of the Women's Act, 2010 contains extensive provisions prohibiting discrimination against women in employment.

3. It is difficult to provide recent data on the informal sector, where women play a key role. Average incomes of both men and women in the informal sector are lower than those in the formal sector. However, men in the informal sector tend to have larger scale operations than women engaged in the same trade. 88% of employed Gambians aged between 15 to 59 years are in the informal sector with agriculture accounting for 55% of informal sector employment<sup>1</sup>.

### **B. Ratification of the ILO Conventions**

4. The Gambia has ratified the following ILO Conventions:
- Forced or Compulsory Labour Convention 1930 (No. 29); ratified on 4<sup>th</sup> September 2000;

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<sup>1</sup> Source: The Gambia – Education, Country Status Report.

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); ratified on 4<sup>th</sup> September 2000;
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98); ratified on 4<sup>th</sup> September 2000;
- Equal Remuneration Convention 1951 (No. 100); ratified on 4<sup>th</sup> September 2000;
- Abolition of Forced Labour Convention, 1957 (No. 105); ratified on 4<sup>th</sup> September 2000;
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111); ratified on 4<sup>th</sup> September 2000;
- Minimum Age Convention, 1973 (No. 138); ratified on 4<sup>th</sup> September 2000;
- Worst Forms of Child Labour Convention, 1999 (No. 182); ratified on 3<sup>rd</sup> July 2001.

### **C. Arranged marriages and polygamy – Articles 2, 3 and 10**

5. Even though Section 27 of the 1997 Constitution provides that marriage should be voluntarily entered into by men and women of “full age and capacity” and Section 24 of the Children’s Act 2005 provides that subject to personal law a child is not “capable of contracting a valid marriage and a marriage so contracted is voidable,” early marriage for girls is still practiced. A Behavioural Surveillance Survey (BSS) on HIV/AIDS conducted by the National Aids Secretariat in 2005 reveals that among all the female respondents of the BSS study, the median age at first marriage is 17.3 years, whilst among the male respondents it is 24.5 years. There has, however, been a reduction in the incidence of early or arranged marriages by sensitization and awareness raising activities by the National Women’s Council and Bureau and CSOs. Increased access to education for the girl child and ensuring she stays and completes schooling have also contributed to the reduction in arranged marriages. Mothers Clubs sensitise the communities and have physically intervened to stop parents from giving away their daughters in marriage.

6. The Committee observed that polygamy is allowed in The Gambia thereby prejudicing legal status of women under articles 2 and 3 of the Covenant. Section 7 of the 1997 Constitution recognizes Sharia, as part of the laws of The Gambia. Sharia law (personal law) is applicable to Muslims and Islam has prescribed for matters of adoption, marriage, including polygamy, divorce, burial and devolution of property at death. These are the socio-cultural realities of Gambian life and in setting standards and norms the religious beliefs of people must be considered to avoid not only the infringement of their rights but also a backlash and rejection of the standard setting instruments. The problem, however, is the lack of knowledge for the majority of women of their rights in Islam. These rights under Islam in relation to marriage and the family are contained in Part IX of the Women’s Act, 2010; and to facilitate the dissemination and wider understanding of the provisions of the Act, it is being translated into Arabic to enable religious leaders to discuss them with the Muslim population.

### **D. Food and housing – Article 11**

7. Following a review of The Gambia Nutrition Policy, 2000-2004, which was aimed at mainstreaming nutrition into all aspects of development and attaining basic nutritional requirements of the Gambian population with emphasis on women and children, a new Nutrition Policy (201-2020) has been completed. A costing of the strategic plan has been and awaits validation has been validated but is yet to be adopted. This policy includes

emerging issues in nutrition and related areas. The draft strategic plan (2011-2015) for the implementation of revised National Nutrition Policy 2010-2020. A Business Plan to be used with the Strategic Plan to resource mobilization has also been developed with the assistance of the World Bank. The National Nutrition Agency (NaNA) was established by an Act of the National Assembly in 2005 under the Office of The Vice-President. NaNA is charged with the responsibility of coordinating all nutrition and nutrition related activities in The Gambia. Since its establishment in 2005 NaNA has achieved the following:

- The formulation and enactment of the Food Act, 2005, leading to the promulgation of the Breastfeeding Promotion Regulations and the Food Fortification and Salt Iodisation Regulations;
- Revitalisation of the National Codex Committee, which is made up of government and non-governmental organizations concerned with food production, quality, safety and trade;
- Coordination of the activities of the International Baby Food Action Network for the protection, promotion and support of optional Infant and Young Child Feeding practices;
- Instituted mechanisms to reduce micro-nutrition deficiencies, namely, the salt iodisation and vitamin A supplementation programme as well as the intensification of IEC promoting Iron Deficiency Anaemia (IDA) control;
- The design and implementation of the Baby Friendly Hospital and Community Initiatives for the prevention and management of infant, young child and maternal nutrition. In the Baby Friendly communities, the Village Support Groups play a key role in transmitting messages and providing support to mothers on practices of infant feeding. In these communities there is early initiation of breastfeeding within the first hour. The result has been healthier children and women in such communities.

8. Information aimed at improving nutritional status and promoting healthy diets is disseminated by various mechanisms, such as radio and television spots and programmes, brochures and leaflets (in English), traditional communicators (local languages), sensitisation of community representatives, sensitisations at health facilities, and workshops and lectures at training institutions. The information disseminated include the following:

- Importance of eating well before, during and after pregnancy;
- Importance of iron supplementation during pregnancy and lactation;
- Importance and benefits of optional infant and young child feeding practices;
- Importance and benefits of iodised salt;
- Importance of vitamin A supplement for children under five years and postpartum mothers within eight weeks after delivery.

9. Communities are also made aware of the need to monitor children under five years for early detection of malnourishment for remedial actions such as referring them to health facilities and/or enrolling them in the programme to receive ready-to-use therapeutic feed.

10. The Committee was also concerned about the reported inadequacy of food supply in The Gambia in 1994. Since then, the situation has improved due to several interventions by Government to address issues of food security and poverty reduction. The Government of The Gambia, in collaboration with development partners has established many projects designed to achieve self-sufficiency in food, including the following:

- The Food Security through Commercialisation of Agriculture Project;
- The Rice Expansion Project;

- The New Rice for Africa Project;
- Projects in the livestock and horticultural sectors;
- Participatory Integrated Watershed Management Project;
- Rural Finance Project;
- Gambia Lowland Agricultural Development Project;
- Livestock and Horticultural Development Project;
- Gambia Emergency Agricultural Production Project.

11. The Food Security through Commercialisation of Agriculture Project is one of seven Food Security Projects in West Africa, with funding from the Italian Government Trust Fund for Food Security and Safety, under the Food and Agriculture Organisation of the United Nations. The three year project mainly targets Farmer-Based Organisations (FBOs) in forty (40) communities and Small Scale Agro-processors in the North Bank and Central River (North) Regions. The project's goals are the reduction of rural poverty and household food insecurity on a sustainable basis with the objective of increasing productivity, market output and incomes and thereby improving livelihoods and food security.

12. Achievements by components:

- Component 1: Strengthening of Service Providers and Farmer-Based Organisations (FBOs):
  - Needs assessment on organizational management conducted;
  - Training of Trainers on organizational management;
  - Training of Trainers on quality management and market-driven agro-processing;
  - Training of Trainers on One Village One Product by expert;
  - Selection of 40 projects sites and farmer groups in the North Bank and Central River (North) Regions communities.
- Component 2: Support to Value Addition and Marketing:
  - Facilitation of access to inputs (fertilizer, seed, chemical, wire);
  - Preparation and dissemination of training material and information resources;
  - Assessment and improvement of storage systems;
  - Establishment of producer-buyer linkages through market visits.
- Component 3: Project Coordination, Monitoring and Evaluation and Regional Cooperation:
  - Establishment of Project Monitoring Unit and field offices, with full complement of staff and required equipment, and the convening of inception workshops;
  - Setting up of institutional collaboration with project partners;
  - Conducting of Annual Review Planning and Budget Workshop;
  - Progress reports prepared;
  - Participation in sub-regional consultative meetings.

- Component 4: Communication for Development:
  - Communication needs assessment carried out and validated;
  - Communication strategy prepared and validated;
  - Key messages developed.

13. The Farmer Managed Rice Irrigation Project is financed through an African Development Bank (ADB) loan and grant. It became effective in June 2006 and scheduled for completion in April 2011. The first disbursement was in August 2006 and the last in March 2010 and May 2010. Disbursement ratio is 100% for the loan and 87% for the grant.

14. Achievements by Components:

- Component 1:

(a) Land development: Target: 1,200 hectares (1,125 hectares in Pacharr and 75 hectares in Niamina)  
 Achievement: 1,067 hectares developed (1,024 hectares in Pacharr and 43 hectares in Niamina)

Yields: Base yield: 2 tons per hectare  
 Target: 5.5 tons per hectare  
 Achievement: 4.5 tons per hectare)

Annual milled rice: Target: 7,000 tons  
 Achievement: 5,733 tons (with 1,254 beneficiaries out of 2,300)

(b) Rural infrastructure construction:

Field meetings sheds: Target: 9; Achieved: 3  
 Day care centres: Target: 6; Achieved: 7  
 Drying floors: Target: 82; Achieved: 8  
 Seed stores: Target: 20; Achieved: 8  
 Wells: Target: 15; Achieved: 7

- Component 2: Credit

Government disbursement to project: Target: to disburse USD 240,000  
 Achievement USD 158,400

Project disbursement to beneficiaries  
 (Ploughing, fertilizer and rice seeds): Target: USD 240,000  
 Achievement USD 21,405.41

- Component 3: Capacity building

Training of farmers: Target: 2,300  
 Achievement: 547

## Training of extension staff:

106 trained

4 agriculture officers trained at M. Sc level

6 agriculture officers trained at undergraduate level at the University of The Gambia

4 agriculture officers underwent short-term overseas training

2 study tours with farmers to neighbouring Senegal

Under this component the following were provided: 4 tractors, 1 excavator, 45 power tillers, 12 rice milling machines and 13 rice threshers.

15. Under the Multi-National NERICA Seed Dissemination Project funded through a loan and grant from the Arab Development Fund 9 (nine) varieties of NERICA seeds were distributed and the following technicians and farmers were trained: 46 technicians and 50 male and 24 female farmers were trained in Seed Quality Control; 20 technicians and 5 male and 15 female farmers were trained in Rice Agronomy and Pest Management; 5 technicians and 20 male and 90 female farmers were trained Making Cents: The Spirit of Entrepreneurship; 18 technicians and 87 male and 14 female farmers were trained in Cultural Practices of NERICA Rice; 14 technicians and 7 male and 5 female farmers were trained NERICA Agronomic Practices; and 2 technicians were trained in Production Techniques.

16. NERICA fits well into the cropping system of The Gambia as demonstrated by a gradual increase in the area under upland cultivation during 2005 to 2010, from 9,000 hectares to 63,000 hectares. Processing and marketing have been major constraints. The plan is to procure 6 milling machines and construct 6 seed stores and 7 drying floors.

17. The Participatory Integrated Watershed Management Project (PIWAMP) is mainly funded by the International Fund for Agricultural Development (IFAD), the African Development Bank (ADB) on behalf of the Nigerian Trust Fund (NTF) and the Government of The Gambia; and has as its goal the reduction of poverty and enhancement of household food security. A Project Management Unit and a Project Steering Committee, which approves the project implementation plan, Annual Work Plans and budgets and provides overall policy guidance, have been established. The project Management Unit signs annual agreements with seven (7) implementing agencies, called Service Providers.

18. Under the Project 14.5 tonnes of rice seeds (7.4 tonnes of short duration and 7.1 tonnes of medium duration) were distributed to 17 projects intervention sites, while another consignment of 23.22 tonnes of rice seeds (10.33 tonnes upland and 12.89 tonnes lowland) was distributed by Regional Agricultural Directors to 11 project intervention sites.

19. The Table below gives a status report on some of the activities under the PIWAMP.

Table 1

**Activities under the Participatory Integrated Watershed Management Project**

| <i>Programme</i>       | <i>Activity</i>                                     | <i>Status</i>                |
|------------------------|---|------------------------------|
| <b>Upland</b>          |   |                              |
| Request for Assistance | 75 communities applied                              | All the six regions involved |
| Reconnaissance Survey  | 2 teams comprising staff from PMU and SWMS involved | 144 communities visited      |

| <i>Programme</i>       | <i>Activity</i>   | <i>Status</i>   |
|------------------------|---|---|
| Bridge construction    | 345 m under construction at 15 sites                                | Work halted due to changes in administration  |
| Spillway construction  | 43 spillways with total length of 440 m marked out in 8 communities | Construction yet to start due to changes in administration  |
| Watershed development  | Contour Bunds/Diversions  | 90 m planned – 15.21 m implemented (17%)  |
|                        | Contour Bunds/Diversions  | 168 plugs planned – 20 completed (12%)  |
|                        | Vertivar Hedgerows Planting on Staked Contours                      | 600 m planned – currently managed by Regional Directorates  |
|                        | Inter-village Road Improvement                                      | 40 km planned – 18.5 km achieved (46%)  |
| <b>Lowland</b>         |   |   |
| Bridges                | Annual target is 376 m  | 249 (66%) achieved  |
| Causeways              | Annual target was 15 km   | 3.7 km (25%) achieved   |
| Dikes                  | 10,000 m planned  | 16,914 m (169%)   |
| Spillways              | 375 m planned for the year  | 220 m (59%) achieved  |
| <b>Others</b>          |   |   |
| Afforestation          | Fruit tree seedlings raised   | Gmelina – 90,200; cashew – 17,300; eucalyptus – 17,250; teak – 150; mango – 1,065; lime – 2,320 and khaya – 460 seedlings |
| Livestock              | 15 drinking points established                                      | Used by 7,980 heads of cattle, daily  |
| Demonstration plots    |   | Not conducted   |
| Rice seed distribution | 14.5 tons distributed   | 17 intervention communities benefited   |
| Farmer to farmer visit | 620 planned   | 460 (74%) conducted   |

*Source:* Ministry of Agriculture – Report on Annual Retreat held 1-3 June 2011.

20. Capacity building and other activities conducted include:

- Continued Monitoring and Evaluation;
- Crop data collection;
- Development of an environment management plan in collaboration with the National Environment Agency;
- Causeway reinforcement and culvert construction;
- Farmer training on sustainable fishing practices;
- Research on back swamps by the National Agricultural Research Institute (NARI);
- Provision of shade at rice fields; and
- External training.

21. The Rural Finance Project's overall development goal is to create an enabling microfinance environment for rural poverty reduction by fostering self-sustaining rural Microfinance Funding Institutions and ensuring they have consolidated access to qualified

support, by forging partnerships with other projects and by using the loan proceeds from the International Fund for Agricultural Development (IFAD) cost-effectively. Among the achievements under the Project are continuation of capacity building of microfinance institutions and staff training of beneficiaries, and provision of mobility through vehicles and motor bicycles.

22. The Gambia Lowland Agricultural Development Project is a five year project targeting only the West Coast Region of the Gambia. Its target is the development of 1,400 hectares of lowland for rice production and 100 hectares of upland for horticultural production.

23. Key achievements under the Project are:

- Lowland development: Bid documents circulated for the development of 1,500 hectares of lowland preceded by both topographic and soil surveys of identified sites;
- Irrigated land development: drilling of 20 bore holes and the fencing of 20 (5 hectares) garden blocks in progress;
- Vehicles, field equipment and tools: 3 Toyota pick-up vehicles, 5 motorcycles, 3 tractors and 5 power tillers have been purchased;
- Post-harvest technologies: 10 fruits and vegetables handling and storage facilities under construction in 10 garden sites;
- Capacity building: 2 training programmes for farmers and 1 for extension agents and 2 study tours have been successfully conducted.

24. The Livestock and Horticultural Development Project is a follow-up project to the recently concluded Peri-Urban Small Holder Improvement Project and is designed to build on the solid and remarkable gains of the former. The Project's goal is to raise the income, improve the food security and reduce poverty of both urban and rural households. It is co-financed by grants from the African Development Bank (AD/B) and the International Fund for Agricultural Development (IFAD) and has a national coverage, mainly targeting women and youths. The project's objective is to increase on a sustainable basis the production, processing and marketing of livestock and horticultural products and by-products.

25. The Project has the following three components:

- 1) Production, processing and marketing of livestock and horticultural products;
- 2) Capacity building of farmers and extension workers; and
- 3) Establishment of a Project Management Unit (PMU) to coordinate the overall implementation of the project and the management of its resources to ensure that its objective is realized.

26. The Table below gives the activities under the project and their status.

Table 2

**Activities under the Livestock and Horticultural Development Project**

| <i>Component</i> | <i>Activity</i>   | <i>Status</i>  |
|------------------|---|--|
| Component 1      | <ul style="list-style-type: none"> <li>• 10 fodder tree plantations established as part of the small ruminant production activities</li> <li>• 5 fodder plantation sites established</li> <li>• Procurement and provision of livestock</li> </ul> | <ul style="list-style-type: none"> <li>• 2 communities withdrew</li> <li>• 100% achievement</li> <li>• 160 troughs for 10 communities</li> <li>• Local Management Committees (LMCs)</li> </ul> |

| <i>Component</i> | <i>Activity</i>                | <i>Status</i>   |
|------------------|--------------------------------|---|
|                  | feeding and drinking troughs   | comprising 5-8 members set up in all villages   |
| Component 2      | Capacity Building              | <ul style="list-style-type: none"> <li>• 3 day training of trainers for 142 extension workers on livestock and horticultural production techniques</li> </ul>         |
| Component 3      | Project Managements Unit (PMU) | <ul style="list-style-type: none"> <li>• Identification of beneficiary communities undertaken</li> <li>• Mobility provided for staff and service providers</li> </ul> |

*Source:* Ministry of Agriculture – Report on Annual Retreat held 1-3 June 2011.

27. The Gambia Emergency Agricultural Production Project is an 18 month project funded by the European Commission through the World Bank with the objective of improving both the access to agricultural inputs and implements thereby enhancing rice and early millet production and post-harvest storage capacity. It is a nation-wide project with interventions in 10 districts, covering 520 villages.

28. It has the following 3 components (A) Procurement and distribution of seeds, fertilizers and equipment; (B) Improvement of post-harvest storage capacity and enhancement of year-round seed production in 3 strategic points; and (C) Project coordination, monitoring and evaluation.

29. The achievements under the project are as follows:

- Component A: Procurement and distribution of:
  - 500 tons of rice seeds (350 tons, upland and 150 tons, lowland);
  - 25 tons of early millet;
  - 60,000 (50 kg) bags of fertilizer;
  - 300 power tillers;
  - 367 units of seeders;
  - 367 units of sine hoes;
  - 367 units of rice threshers.
- Component B: Improvement of post-harvest storage capacity and enhancement of year-round seed production in 3 strategic points:
  - Rehabilitation of 35 village seed stores (ongoing as at June 2011);
  - Training of farmers and extension workers;
  - Rehabilitation of 3 seed multiplication centres.
- Component C: Project coordination, monitoring and evaluation:
  - Project was rate satisfactory;
  - 70% of procurement plan implemented;
  - Disbursement rate stood at 70% after 12 months of implementation;
  - 30 motor bikes procured and distributed to staff attached to the project to enhance mobility;
  - Relevant short term training for project coordinating staff;

- Overall production increased from 1 ton/hectare to 2.83 tons/hectare, with a total production of 10,197 metric tons and a total of 3,603 hectares of rice.

30. Aware of the importance of agriculture as an engine of development, the government provides farmers with inputs (seeds, fertilizers, pesticides, etc.) to increase their yield and tractors and other farm implements to assist them move from subsistence farming to mechanised farming. There are, however, many challenges, such as inadequacy of financial and trained human resources, poor storage facilities and the susceptibility of Gambians to high and fluctuating prices with a heavy reliance of imported food. These are among the challenges the government is determined to address urgently. In 2011, the World Food Programme in its Comprehensive Food Security and Vulnerability Analysis, in The Gambia, puts the level of food insecurity or vulnerability at approximately 11 per cent of the total population.

31. The Committee regretted that it had no information on the right to housing in The Gambia. It is part of the Gambian ethos that every member of the immediate, extended and communal family is provided with the housing, albeit not always adequate in the amenities available. In the regions the majority of the population live in family compounds, although an increasing number of residents in the regions live in rented accommodation as the pace of decentralisation increase. In the Greater Banjul Area, including the Kanifing Municipality, more and more people live in rented premises, a contributing factor being the rural-urban drift. To safeguard the interests of tenants, the Government has promulgated a Rent Act, establishing in each administrative area, that is, the City of Banjul, Kanifing Municipality, Brikama, Kerewan, Mansakonko, Janjangbureh and Basse areas in the five regions a Rent Tribunal, to among other things, determine the rent payable, taking into consideration the location, age and structure of the property, the facilities available, the number of tenants and any improvement necessary to be made to the property.

32. In addition the Social Security and Housing Finance Corporation, a public enterprise, has over the past decade provided low-cost housing schemes initially in the Kanifing Municipality and extended over the years to its Brusubi Housing Scheme in the West Coast Region. Such housing schemes are located in areas with access to basic amenities and services, such as water, electricity, waste disposal and infrastructures such as access roads, markets, health centres and police stations. The Corporation is in the process of extending the provision of shelter countrywide with about twenty new housing estate sites identified in all the Growth Centres throughout the country.

33. The Government has embarked on initiatives to relocate people living in unsanitary environments to areas fit for human habitation. The right to adequate housing is guaranteed to women under Section 53 of the Women's Act, 2010, providing that women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment, and that Government, to ensure these rights, shall grant to women, irrespective of their marital status, access to adequate housing. The National Women Federation is providing low cost housing scheme in government allocated land for women and other family members who were recently evicted from an old quarry site exposed to devastating floods during the rainy season. Government has also made cash donations to every family affected by the relocation. The Female Lawyers Association of The Gambia (FLAG) provided legal aid to 17 women who were evicted. The incidence of homelessness in The Gambia is very low.

## **E. Maternal and infant mortality rates, fertility rate, FGM – Article 12**

34. Primary and secondary health care have expanded significantly and increased immunization has reduced mortality rates. Physical access continues to improve with the upgrading and building of new facilities with trained health staff. The Poverty Reduction

Strategy Paper (PRSP) Progress Report of 2007 indicates that over 85% of the population are within 3 km and 5 km of a basic health facility and 97% within the same distance of a primary health care post. Antenatal care coverage country-wide is as high as 96% and there is 96% awareness of Reproductive and Child Health (RCH). There has consequently been a decline in the maternal mortality rate from 730/100,000 live birth in 2001 to 556/100,000 live births in 2006; the neonatal mortality rate was 31.2/1,000 live births in 2001, down from 60/1,000 live birth; the infant mortality rate was 75/1,000 live births, down from 97/1,000 live births in 1993. The under 5 mortality rate was 99/1,000 live births, down from 134/1,000 live births in 2001. The fertility rate in The Gambia, which is according to UNDP figures for the period 1986-1987 stood at 6.5 and which was one of the areas of concern for the Committee, was reduced to 5.4 in 2003. A major target of the National Population Policy 2007-2015 is the further reduction of the fertility rate to 4.5 by 2015.

35. FGM is still widely practised in The Gambia. However, this negative harmful practice is being addressed both by the Government and CSOs. UNFPA/UNICEF have been supporting the development of a National Plan of Action to Accelerate the Abandonment of FGM/C. UNICEF in partnership with the Gambian Government through the Women's Bureau and Tostan launched a 3 year Community Empowerment Programme initiative in The Gambia (2006-2009), in May 2006, directly targeting some 80 Mandinka and Fula communities and some 63 adopted communities/villages in the Upper River Region (URR). The CEP programme/strategy is based on the Tostan experiences in Senegal and elsewhere, where basic education programme complemented by "organised diffusion" in the communities, eventually led to the abandonment of FGM/C in numerous Tostan intervention communities. CSOs such as The Foundation for Research on Women's Health, Productivity and the Environment (BAFROW), The Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP) and the Association for the Promotion of Women and Girls Advancement (APGWA) champion the fight against FGM/C with appreciable results. GAMCOTRAP has organized "Dropping the Knife" ceremonies where circumcisers make public declarations that they will no longer engage in the practice and that they will protect the girl child not only from FGM/C but other harmful practices. "Dropping the Knife" ceremonies have been organized in Bakau, in the Kanifing Municipality, on 6<sup>th</sup> May 2007, where 18 circumcisers from 63 communities publicly dropped their knives; on 5<sup>th</sup> December 2009 in Basse in the Upper River Region, where 60 circumcisers from 351 communities made public commitments to a large crowd consisting of traditional chiefs, community leaders and women leaders. Legislation alone is, however, not enough. Evidence from neighbouring countries and at the global level that have legislated against the practice indicates that people with entrenched beliefs will resort to other measures to enable them to practice what they believe in. Cases have been reported of people travelling from nearby Senegal where it is banned to The Gambia and from Europe and the Americas to their countries of origin for their children to undergo the practice. It is a question of changing attitudes and beliefs, and it is expected that the Plan of Action will address these issues, bringing all stakeholders on board. Thus the need for sustained sensitization and awareness creation.

## **F. Compulsory education – Articles 13 and 14**

36. The 1997 Constitution of The Gambia provides that basic education shall be free and compulsory. Basic (primary) education in The Gambia consists of two cycles, the lower basic cycle grades 1-6 and the upper basic cycle, grades 7-9. Lower basic education is free to all in public and government-subsidized schools. The National Vision 2020, the National Education Policy 2000-2015, the Millennium Development Goals and the Poverty Reduction Strategy Paper (PRSP II) form the foundation for Government's intervention in the education sector. Even though education at the upper basic secondary and tertiary levels

is not free, there have been positive affirmative actions in the provision of scholarships and study grants under the Girls Scholarship Trust Fund, which is exclusively for girls in grades 7-12 in the North Bank Region, Lower River Region, Central River Region and Upper River Region. The President's Empowerment of Girls Education Project (PEGEP) provides financial support for girls at the senior secondary and higher levels. The University of The Gambia (UTG), the only university in the country, has also maintained the policy of non-discrimination for access to university education and most of its students are sponsored by Government. The expanded vision of basic education (comprising early childhood education, adult and non-formal education and nine years of continuous formal schooling – from grades 1-9) stands out as a successful model in Africa. The teaching of English in the grant-aided madrassas and the harmonization of the various syllabuses of the madrassas and their synchronization with the curriculum of the conventional schools have contributed to this success. The Adult and Non Formal Unit established by the Ministry of Basic and Secondary Education (MoBSE) coordinates functional literacy classes for girls and women aged 15 to 24 and above, and the Gender Education Unit conducts a re-entry programme for girls who have dropped out of school and want to continue their formal education. The National Education Policy, 2004 to 2005, was formulated with priority areas such as access to education, quality education, vocational and technical education, tertiary and higher education and capacity building.

37. The 1997 Constitution of The Gambia commits the government to providing basic education for all of its citizens. The expanded vision of Basic Education in the National Education Policy 2004-2015 incorporates early childhood development (ECD), grades 1-9 of the formal school system and adult and non-formal education. The values outlined in the National Education Policy, 2004-2015 are grounded on a non-discriminatory and all inclusive provision of education, underlining in particular, gender equity and targeting the poor and the disadvantaged.

38. In December 2010, the Government of The Gambia held a joint education sector review as part of the ongoing policy dialogue and reform. During that review The Gambia-Education Country Status Report, prepared with technical support from the World Bank, UNESCO and other development partners, was presented and its findings contributed to the policy dialogue. Some of the findings of the report are given below.

39. The education system in The Gambia faces a higher but decreasing demographic pressure, and improving conditions. The proportion of the basic school aged population (7-15 years) in the total population is expected to drop slightly from 23.2% in 2010 to 22.8% in 2020 but the numbers will increase from 328,000 to 490,000, making it necessary to increase the system's capacity in terms of school seats by 70% if universal basic education (9 years of schooling) is to be achieved by 2020.

40. During the period 2000/09 enrolment in senior secondary and higher education more than doubled, from 15,554 to 36,141 students in secondary education and from 1,948 to 7,155 students in higher education, the increase in higher education mainly attributable to recent expansion of teacher training programmes. Students' enrolment in teacher training has almost doubled, from 14% in 2005/06 to 27% in 2009/10.

41. Lower basic enrolment during the period 2000/09 increased steadily from 223,328 to 303,281 although average growth has slowed down to 3% since 2005. This growth is due to the increase in madrassas (14% annual growth) and private schools, particularly in Lower Basic Education with 17% annual growth. Early Childhood Development (ECD) has also expanded by 9% on average per year.

42. At basic and secondary levels the Gross Enrolment Rate (GER) is stagnant, increase in enrolment rate being the same as the school-aged population. In 2009/10, the GER was 88% in Lower Basic Education (LBE), 66% in Upper Basic Education (UBE) and 35% in

Senior Secondary Education (SSE). The Early Childhood Development (ECD) gross enrolment ratio was 36% in 2009/10, a big increase from 25% in 2007/08. Higher education enrolment increased from 427 students per 100,000 in 2005/06 to 447 in 2009/10.

43. The primary completion rate is 75% against 67% for the Sub-Saharan Africa (SSA) average. The primary gross intake rate (grade 1 access rate) is behind the SSA average at 94% implying that some children still do not have access to school. However, Upper Basic Education and Senior Secondary Education intake and completion rates place The Gambia in 3<sup>rd</sup> best position out of 24 African countries.

44. Survival rates show that out of 100 children who enter grade 1, 75 reach grade 6, and 60 reach grade 9. If the 2008/09 survival rates continue, primary completion rate will drop to 70% by 2014. There is, therefore, the need to address the drop-out issue. Out-of-school children represent 31.6% of the age group 7-15 years, most of whom (29.1%) have never attended school. The main reasons given by households for children being out of school are religious (48% of cases), the cost (20%), and being too young (13%).

45. Until 2007, the Ministry of Basic and Secondary Education (MOBSE) was responsible for education from early childhood development to higher education. However, in 2007, the Ministry of Higher Education, Research Science and Technology (MoHERST) was created to assume responsibility for post-secondary education of the overall enrolment at the higher education level, in both 2005/06 and 2009/10, the social sciences, business and law represented 40%, with enrolment in engineering, manufacturing and construction decreasing significantly over the past five years from 26% to 14%. If The Gambia is to keep pace with rapid technological development and needs, more affirmative action is needed.

46. The Gambia's Non Formal Education Policy (2010-15) was developed under the National Education Policy (2004-15) and aligned with the education related MDGs, Education For All (EFA) goals, the second Poverty Reduction Strategic Paper and The Gambia's strategies in key priority thematic areas such as access to non formal education, quality, relevance, financing, validation and certification, and links between the informal and formal subsectors.

### **III. General provisions of the Covenant**

#### **Article 1**

47. The land tenure system in The Gambia consists of freeholds, mostly in Banjul and environs, deriving title from grants made in colonial times, leaseholds for ninety-nine years, and customary tenure in the five Regions comprising lands held by families and communities on a family communal basis. Lands under customary tenure can only be acquired from the families or communities involved, with the stamp of approval/confirmation of ownership by the village heads, alkalulos and the chiefs.

48. The laws of The Gambia provide for the compulsory acquisition of land for public purposes on the payment of reasonable compensation accepted by the owner of the land, whether freehold, leasehold or customary tenure.

#### **Article 2**

49. Even though "the full realization of each of the Covenant rights" has so far not been achieved with the international economic and technical assistance and cooperation The Gambia receives from its development partners significant progress has been registered

in the realization of some of the rights. There have been major investments and developments in improving the road network, including the operationalization of the National Roads Authority. Agricultural production has increased, with crop production increasing from 353.4 thousand metric tons in 2008 to 355.8 thousand metric tons in 2010, and an expected increase to 366.5 thousand metric tons in 2011. Physical access to health care has also significantly improved by the expansion of health facilities and the local training and recruitment of health personal, including doctors. About 600 communities are being supported to develop programmes to improve their livelihoods and the capacities of extension workers and local government officials to support the Community Driven Development Programme. With respect to women empowerment, women have been trained in terms of skills development and income generation activities and they actively participate in the decision-making processes. Gender parity between boys and girls at the lower basic education cycle has been significantly improved through free scholarships to girls across the regions with a lot of donor interventions. During the sixty-sixth session of the UN General Assembly in 2011, a side event was organised by the USAID and the UK Department for International Development to show-case countries which have made significant progress towards achieving the MDGs. The Gambia was among those countries show-cased for its progress towards the achievement of the MDGs, particularly Goal 3 under Pillar 3 relating to the promotion of gender equality and empowerment of women. Government's social expenditures as a proportion of total public expenditure and GDP has increased as indicated in the Table below.

Table 3  
**Government's social expenditures as a proportion of total public expenditure and GDP (dalasis '000s)**

|  | 2007 (actual)  | 2008 (actual)  | 2009 (actual)  | 2010 (approved)  |
|--|----------------|----------------|----------------|------------------|
| Education  | 285,992        | 395,691        | 491,360        | 1,007,592        |
| Health   | 217,068        | 283,047        | 397,853        | 382,480          |
| Housing and community amenities                  | 31,176         | 33,809         | 36,166         | 73,537           |
| Social security and welfare                      | 6,267          | 6,153          | 5,495          | 11,132           |
| As percentage of total expenditure               | 22.69%         | 25.74%         | 24.90%         | 24.90%           |
| GDP at constant 2004 prices (in million dalasis) | 18,322,591     | 19,346,072     | 20,557,898     | 21,806,922       |
| <b>Total expenditure</b>                         | <b>561,492</b> | <b>741,300</b> | <b>954,509</b> | <b>1,518,891</b> |

50. The Gambia's external debt stock has significantly decreased, as indicated below, from 676.7 million USD in 2006 to 341.2 USD million in 2010.

Table 4  
**The Gambia's external debt stock, 2006-2010**

|                            | 2006  | 2007  | 2008  | 2009  | 2010  |
|----------------------------|-------|-------|-------|-------|-------|
| External debt (US \$ mn)   | 676.6 | 299.4 | 328   | 330.1 | 341.2 |
| Interest payments (GMD mn) | 232.2 | 231   | 153.5 | 153.2 | 136.6 |

|               |      |      |      |      |      |
|---------------|------|------|------|------|------|
| Exchange rate | 28.1 | 24.9 | 22.2 | 26.6 | 27.7 |
|---------------|------|------|------|------|------|

Source: DLDM, MOFEA; date 21/09/11.

51. While The Gambia's external debt has decreased significantly, the domestic debt position shows a steady increase from the 1<sup>st</sup> half of 2008 to the 2<sup>nd</sup> half of 2010, reflecting Government's policy of more self-reliance to accelerate its development agenda and less dependence on external sources. However, a high domestic debt is also a matter of concern for the Government, as is reflected in the debt position in the 1<sup>st</sup> half of 2011 indicating a significant reduction in the figures for the 2<sup>nd</sup> half of 2010 and the 1<sup>st</sup> half of 2011.

Table 5  
**Total domestic debt, 2008-2011**

|                         | 1 <sup>st</sup> half 08 | 2 <sup>nd</sup> half 08 | 1 <sup>st</sup> half 09 | 2 <sup>nd</sup> half 09 | 1 <sup>st</sup> half 10 | 2 <sup>nd</sup> half 10 | 1 <sup>st</sup> half 11 |
|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| Total domestic debt     | 4,797.65                | 4,674.15                | 4,801.01                | 6,991.41                | 7,026.15                | 7,897.1                 | 2,278                   |
| Total domestic debt/GDP | 4,410.74                | 4,321.5                 | 4,466.33                | 4,831.67                | 4,841.47                | 5,588.64                | 6,156.1                 |

52. The 1997 Constitution of The Gambia provides that every person in The Gambia, whatever his or her race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status, is entitled to the fundamental human rights and freedoms of the individual contained in Chapter IV of the Constitution, but subject to respect for the rights and freedoms of others and for the public interest. It also provides that those rights and freedoms shall be respected and upheld by all organs of the Executive and its agencies, the legislature and, where applicable to them, by all natural and legal persons in The Gambia, and shall be enforceable by the Courts as provided for in the Constitution.

53. The Constitution guarantees, among other rights, the following rights enunciated in the Covenant:

(a) The rights of women, recently elaborated by the Women's Act, 2010, Part II, of which guarantees the right to dignity, the right to life, integrity and security of the person, protection from violence, access to justice and equal protection before the law (with a provision in Section 7 (3) making "all contracts and other private instruments of any kind with a legal effect directed at restricting the legal capacity of a woman ... deemed null and void"), freedom from discrimination, right to movable and immovable property. Part III provides under Section 14 (1) that "The Government shall promote and protect the rights of women and take positive measures to eliminate all forms of discrimination against women in all its institutions, agencies and organs, in line with its international obligations under the Convention [CEDAW] And the Protocol" (the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa). Part IV provides for "every organ, body, public institution, authority, or private enterprise [to] adopt temporary special measures as set out in [the] Act aimed at accelerating de facto equality between men and women."

(b) The right to work: In addition to constitutional guarantees of freedom from forced labour and slavery, the Labour Act 2007 contains extensive provisions on the right to work, conditions of employment and protection from wrongful dismissal or termination of employment. Part V of the Women's Act 2010 contains provisions prohibiting discrimination against women in employment, guaranteeing free choice of employment and profession, equal remuneration including benefits and equal treatment with men in respect

of work of equal value, social security benefits “particularly in cases of retirement, unemployment, sickness, invalidity, old age and other incapacity to work, maternity leave, protection of health and safety at work, freedom from discrimination on the grounds of maternity (which the Act prohibits), support services “to enable women to combine family obligations with work responsibilities and participation in public life”, and protection from harmful work during pregnancy. The Labour Act also guarantees the right to form and join trade unions and the right to strike.

(c) The right to marry and the rights of children: Section 27 of the Constitution provides that marriage should be voluntarily entered into by men and women of “full age and capacity” and Section 24 of the Children’s Act provides that “subject to the provisions of any applicable personal law, no child is capable of contracting a valid marriage and a marriage so contracted is voidable”. However, as stated earlier in this report in some cases children are still being forced into marriage. Children’s Act contains extensive provisions guaranteeing protection of the fundamental rights and freedoms of children. The Act also establishes the Children’s Court in every region of The Gambia with jurisdiction to hear and determine criminal charges against a child, all civil matters concerning a child, including adoption and applications relating to child care and protection. The Children’s Court has been in operation since the promulgation of the Act. Apart from restrictions reserving the driving of taxis and ground tours operations for Gambians, non-nationals enjoy the economic rights recognized in the Covenant and in fact are major actors in some economic activities in The Gambia. Disaggregated and comparative statistical data on effectiveness of specific anti-discrimination measures and progress in enjoyment of each of the Covenant rights by all, particularly the disadvantaged and marginalized individuals and groups, are not available.

(d) Regional human rights conventions: The Gambia is a party to the following regional human rights conventions:

- African Charter on Human and Peoples’ Rights; ratified on 8<sup>th</sup> June 1983;
- African Charter on the Rights and Welfare of the Child; ratified on 14<sup>th</sup> December 2000;
- Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights; ratified on 30<sup>th</sup> June 1999;
- Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa; ratified on 25<sup>th</sup> May 2005;
- AU Convention Governing the Specific Aspects of Refugee Problems in Africa; ratified on 12<sup>th</sup> November 1980;
- OAU Convention for the Elimination of Mercenarism in Africa; signed on 24<sup>th</sup> December 2003, and ratified on 30<sup>th</sup> April 2009;
- AU Convention on the Preventing and Combating of Corruption; signed on 24<sup>th</sup> December 2003 and ratified on 30<sup>th</sup> April 2009;
- OAU Convention on the Prevention and Combating of Terrorism; signed on 14<sup>th</sup> July 1999 and ratified 30<sup>th</sup> April 2009;
- Protocol to the OAU Convention on the Prevention and Combating of Terrorism; ratified on 21<sup>st</sup> December 2000;
- Protocol on Amendments to the Constitutive Act of the African Union; signed on 24<sup>th</sup> December 2003 and ratified on 30<sup>th</sup> April 2009;
- Protocol of the Court of Justice of the AU; signed on 24<sup>th</sup> December 2003 and ratified on 30<sup>th</sup> April 2009;

- African Youth Charter; signed on 24<sup>th</sup> December and ratified on 30<sup>th</sup> April 2009.

(e) Human Rights treaties incorporated into the national legal system: In addition to the constitutional promotion and protection of fundamental human rights and freedoms under Chapter IV of the Gambian Constitution, which covers most of the fundamental rights and freedoms contained in the ICCPR and the ICESCR, and specific legislation addressing human rights issues such as the right to food, the right to work and the right to water, The Gambia has enacted laws incorporating the following human rights treaties into the national legal regime:

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa both domesticated by the Women's Act, 2010;
- Convention on the Rights of the Child (CRC) and its Optional Protocols and the African Charter on the Rights and Welfare of the Child; domesticated by the Children's Act, 2005 and the Tourism Offences Act, 2003;
- United Nations Convention against Transnational Organized Crime, 2000, and the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing it; domesticated by the Children's Act (Sections 39 & 40) and the Trafficking in Persons Act, 2007;
- Convention relating to the Status of Refugees, 1951, and its 1967 Protocol, and the African Union Convention Governing Specific Aspects of Refugee Problems in Africa; domesticated by the Refugee Act, 2008;
- Forced or Compulsory Labour Convention, 1930 (No. 29); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organize and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Abolition of Forced Labour Convention, 1957 (No. 108); Discrimination (Employment and Occupation) Convention, 1958 (No. III); domesticated by the Labour Act, 2007;
- Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182); domesticated by the Children's Act, 2005.

(f) Invoking and enforcing provisions of human rights instruments: The Gambia maintains the dualist system/tradition of ratifying and domesticating the provisions of human rights instruments before they can be invoked before, or directly enforced by, the courts or other tribunals or administrative authorities. However, provisions of undomesticated human rights instruments which are in consonance with provisions of the Constitution can be and have been invoked before the courts. Such provisions of the Universal Declaration on Human Rights and the African Charter on Human and Peoples' Rights have been invoked before the High Court of The Gambia.

(g) Institutions with responsibility for overseeing the implementation of human rights:

(i) Ombudsman: Section 163 of the Constitution provides for the Office of the Ombudsman, which is empowered to investigate allegations of maladministration, mismanagement or discriminatory practices in any government department, authority, or other public body. The Ombudsman Act 1997 further empowers the Ombudsman, inter alia, to investigate complaints of injustice, corruption, abuse of powers and unfair treatment of any person by a public officer in the exercise of official duties. The Office of the Ombudsman has also established a Human Rights Unit to address specifically human rights issues.

(ii) The National Women's Council, Women's Bureau and the National Women's Federation: These three institutions form the core of the machinery for the advancement of women and girls through the implementation of the National Policy for the advancement of Gambian Women and Girls and the provisions of CEDAW and the Protocol to the African Charter on the Rights of Women in Africa.

(iii) National Council for Civil Education: The NCCE conducts routine community meetings in towns and villages to educate the public on their constitutional rights, duties and responsibilities. It also conducts regular live radio and television programmes on topical issues relevant to good governance. It conducts voter education anytime elections are approaching to enable voters to make informed choices. It recently completed a one year pilot of the teaching of civic and human rights education in Gambian schools.

(iv) The Department of Social Welfare: The Department of Social Welfare has recorded successes in awareness raising, capacity building, training of partners on the promotion and prevention of child abuse and exploitation, protection of vulnerable adults and elderly persons. Despite resource constraints, the Department is currently providing education sponsorship for 1,500 needy children. It is also providing 30 abandoned babies with foster care, 150 children with shelter and support, 400 street children (almudos) with skills training and basic needs, 14 elderly persons with residential care and 20 persons with home-based care services, 5,000 disabled persons with artificial limbs and walking sticks and/or frames. It has also set up a child protection base for vulnerable children, a steering committee on orphans and vulnerable children and a National Action Plan on Orphans and Vulnerable Children. The Department also operates a child/family hotline and has trained 15 social workers on emergency preparedness. Social workers continue to provide the Children's Court with home study reports on young offenders appearing before this court.

(v) Persons with disabilities: Section 31 of the Constitution provides that "the right of the disabled and handicapped to respect human dignity shall be recognized by the State and society". It provides further that "disabled persons shall be entitled to protection against exploitation and to protection against discrimination, in particular as regards access to health services, education and employment" and "in any judicial proceedings in which a disabled person is a party, the procedure shall take his or her condition into account". A directive principle of state policy further enjoins the State to pursue policies that protect the rights and freedoms of the disabled and other vulnerable members of society to ensure that such persons are provided just and equitable social opportunities. The Gambia has not yet ratified the Convention on the Rights of Persons with Disabilities but it has made strides in some areas. There are three recognized specialized schools for persons with disabilities: St. John's School for the Deaf, Methodist Special School for children with Learning Difficulties and GOVI resource center providing an education service for the visually impaired. A number of Government agencies have been addressing the rights of persons with disabilities. These include the Ministry of Basic and Secondary Education, the Social Welfare Department, the Ministry of Youth and Sports, etc. The National Planning Commission is also currently in consultation with the Disabled Peoples' Organization and the Gambia Federation of the Disabled to mainstream disability into Government's Poverty Reduction Strategy. The Gambia Plan of Action on the African Decade for Persons with Disabilities is in the process of being endorsed. More than thirteen non-government organizations and associations have also been working on issues affecting persons with disabilities.

(h) Remedies available to victims of human rights violations: Section 37 of the Constitution provides for the enforcement of the fundamental human rights provisions provided in Chapter IV through the High Court, which may hear and determine any applications made and may make such orders, issue such writs, and give such directions as it may consider appropriate for the purposes of enforcing or securing the enforcement of any of the fundamental rights provisions.

(i) National human rights institutions: Even though The Gambia does not have a National Human Rights Commission, the establishment of which is being pursued, there are other institutions, referred to earlier in this document, which are created for the protection and promotion of human rights at the national level. They are the:

- Office of the Ombudsman;
- National Women's Council and its Bureau;
- National Women's Federation with regional branches throughout The Gambia;
- National Council for Civil Education;
- Independent Electoral Commission;
- GOVI resource centre providing for education services for the visually impaired;
- National Agency against Trafficking established under the Trafficking in Persons Act of 2007, a comprehensive legislation which seeks to prevent, suppress and punish those engaged in trafficking in persons, and to rehabilitate and reintegrate victims of trafficking. The Agency is to ensure its implementation;
- Alternative Dispute Resolution Secretariat;
- National Agency for Legal Aid.

(j) Raising human rights awareness among public officials and other professionals: Hardly a month passes without a workshop, seminar or training programme being organised by Government and its development partners for public officials on issues of human rights and good governance. The U.S. Embassy regularly sponsors workshops for members of the Armed Forces on international humanitarian law; UNICEF is at the forefront in assisting Government's efforts to raise public awareness and indeed that of social workers, the police and members of the Children's Court on the rights of the child; UNDP provides valuable assistance to Government's drive to increase access to justice with resources to establish institutions such as the Alternative Dispute Resolution Secretariat (with regional Centres) and the National Agency for Legal Aid, and to train officials of those institutions; the Development Fund for International Development (DFID) of the U.K. Government has over the years assisted both the Ministry of Justice and the Judiciary in conducting training workshops for Lawyers, Judges and Magistrates. Other public officials are regularly sensitised on human rights issues relative to their sectors. Symposia on the benefits of education, particularly of the girl child, are organised by the Ministry for Basic and Secondary Education in cooperation with the Gambia Teachers Union, UNESCO and NGOs like Concern Universal and Female Lawyers Association of The Gambia (FLAG).

(k) Reporting process at the national level: The Government has established a Task Force on United Nations Human Rights Reports to Treaty Bodies, comprising some of the representatives of key government ministries and public institutions who participated in a three-day training workshop on Reporting to the UN Human Rights Treaty Bodies, conducted by the Office of the United Nations High Commissioner for Human Rights through the office of its Regional Representative for West Africa, from 17 to 19 May, 2011, in Banjul, The Gambia. The Task Force, under the coordination of the Ministry of Justice,

worked closely with a consultant contracted by the office of the UNHCHR, in a participatory, hands-on manner, including the collection and collation of relevant information and statistical data for the reports. In addition to the Task Force, there is imposed on all Government and public institutions a statutory duty under Section 66 of the Women's Act, 2010, to submit annual reports to the Women's Bureau on their compliance with the Act to enable the National Women's Council to fulfil its statutory responsibility for the preparation of the periodic reports under CEDAW for submission to the Convention Committee. Members of the Task Force will serve as desk officers (contact persons) for the preparation of future reports under CEDAW and other treaty bodies of the UN. All reports are validated at workshops to which all stakeholders, including CSOs and NGOs, are invited for their comments on the final drafts of the reports for discussion and incorporation in the final reports to be submitted to Government for submission to relevant UN treaty bodies.

(l) Role of civil society, including non-governmental organizations: The Government of The Gambia has been working on creating the enabling environment, especially for human rights organizations working on women issues. Organisations such as the Female Lawyers Association of The Gambia (FLAG) and GAMCOTRAP, for example have also been working on issues on women. FLAG continues to provide legal aid for some women in conflict with the law. GAMCOTRAP has also been leading the campaign to end the practice of FGM in the country. On 5<sup>th</sup> December 2009, as many as sixty (60) circumcisers from three hundred and fifty one (351) communities in the Central River Region and Upper River Region made an open declaration relinquishing the practice of FGM by taking an oath that they would not practice it in their life time again. After relinquishing the practice, circumcisers normally take an oath that they would not practice FGM in their life again. GAMCOTRAP has conducted many similar exercises in the past and continues to do so. Circumcisers who "drop their knives" are also provided with compensation to engage in adequate employment opportunities.

(m) Persons with disabilities: Section 31 of the Constitution provides that "the right of the disabled and handicapped to respect and human dignity shall be recognized by the State and society". It provides further that "disabled persons shall be entitled to protection against exploitation and to protection against discrimination, in particular as regards access to health services, education and employment" and "in any judicial proceedings in which a disabled person is a party, the procedure shall take his or her condition into account". A directive principle of state policy further enjoins the state to pursue policies that protect the rights and freedoms of the disabled and other vulnerable members of society to ensure that such persons are provided just and equitable social opportunities. The Gambia has not yet ratified the UN Convention on the Rights of Persons with disabilities but it has made strides in some areas. There are three recognized specialized schools for persons with disabilities: St John's School for the Deaf, Methodist Special School for children with Learning Difficulties and GOVI resource center providing an education service for the visually impaired. A number of Government agencies have been addressing the rights of persons with disabilities. These include the Ministry of Basic and Secondary Education, the Social Welfare Department, the Ministry of Youth and Sports, etc. The National Planning Commission is also currently in consultation with the Disabled Peoples' Organization and the Gambia Federation of the Disabled to mainstream disability into Government's Poverty Reduction Strategy. The Gambia Plan of Action on the African Decade for Persons with Disabilities is in the process of being endorsed. More than thirteen non-governmental organizations and associations have also been working on issues affecting persons with disabilities.

### Article 3

54. The Government, with the support of its partners, has formulated policies designed to mainstream gender in development. The National Policy for the Advancement of Gambian Women (NPAGW) 1999-2009 was the main reference point for stakeholders to address the needs and interest of Gambian women with regard to participation, access, ownership and rights for the attainment of a just and equitable society. The NPAGW specifically targeted women and covered 18 thematic areas which were designed to “right the wrongs” and to reduce the huge inequalities and inequities between men and women and between boys and girls due to the patriarchal nature of Gambian society. Success in implementation of the Policy was mixed with some sectors such as education and health doing much better than the other sectors. A mid-term review of the NPAGW in 2006 accorded the Women’s Bureau the opportunity to incorporate strategic issues such as rural development, HIV/AIDS and ICT. A major outcome of the key recommendations of the mid-term review of the NPAGW is the formulation of the Gender Policy 2010-2020.

55. The Draft Gender and Women’s Empowered Policy 2010-2020, which has been validated at a workshop including all stakeholders, provides a framework for mainstreaming gender in national and sectorial plans and programmes and for monitoring and evaluation. It is expected to accelerate the process of creating a culture of gender equality in all institutions by influencing social change within the family, the community and the nation at large. The policy addresses the following thematic areas:

- Capacity Building for Gender Mainstreaming;
- Poverty Reduction, Economic Empowerment and Livelihoods Development;
- Gender and Education;
- Gender and Health, Adolescent Sexual and Reproductive Health and HIV/AIDS;
- Gender and Human Rights;
- Gender and Governance;
- Gender and the Government.

56. Other policies and programmes which have mainstreamed gender include:

- The National Population Policy and Plan of Action 2007-2011;
- The National Health Policy “Changing for Good” 2001-2006;
- The National Health Policy “Health is Wealth” and the Health Master Plan 2007-2020;
- The National Reproductive Health Policy 2007-2014;
- The National Nutrition Policy 2000-2004;
- The National Education Policy “Rethinking Education for Poverty Reduction” 2004-2014 and the Education Sector Strategic Plan 2006-2015;
- The National Youth Policy 1998-2008;
- The Poverty Reduction Strategy Paper (PRSP) II, covering the period 2009-2010, is built around the attainment of the MDG’s and merges all the priorities of the different policies, including internationally agreed Covenants and targets such as the Millennium Development and Education For All Goals;

- The UNDAF 2007-2011 jointly implemented by the UN Agencies in The Gambia addresses key priorities of Government in relation to the MDGs such as women's empowerment, the generation and utilization of disaggregated data and gender information, safe motherhood and Reproductive and Child Health (RCH) rights at the national and sub-national levels.

57. Gender mainstreaming strategies contained in the Education Sector Strategic Plan, ESSP 2006-2015, are:

- Minimising educational costs, especially for girls: Minimizing the costs of schooling: Scholarship schemes and other incentives are provided to promote girls education. In the public schools, schooling is tuition-free up to grade 9. The Scholarship Trust Fund pays for all the girls from grade 7-12 in Education Regions 3-6. The President's Empowerment of Girls Education Project (PEGEP) pays for all the girls in public schools. However, these funds are supplemented by regional initiatives and incentives of various types, including special scholarship packages that cover a wide range of costs from fees, uniforms, books to mentoring.
- Increasing the number of child-friendly school environments: The Child Friendly School Initiative (CFSI) supported by UNICEF promotes 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 and discouraging corporal punishment and harassment. It promotes child-centred learning and encourages family and community-based local partnership in education. The CFSI is a powerful tool both for helping to fulfil the rights of children and providing them and education of good quality<sup>2</sup>.
- Equal gender participation at the Parent Teachers Association (PTAs), governing boards and management levels of schools: Equal gender participation in school management is being promoted through the School Management Structures (former PTAs). The School Management Committee (SMC) brings on board people who know the most about the learners and their educational needs, as well as about local values and realities and is the route to more responsive system. It provides the space for community participation and is more equitable as poor households have a stronger and more effective voice in local community institutions in which they play a role in framing priorities and in holding school providers accountable.

58. Access to Education: Tremendous success has been gained in expanding access to education across all levels. Schools have been brought nearer to home within 3-5 km from the community. Building schools closer to the homes of the students contributes to providing safety and security for them especially the girls as they have to walk shorter distances to and from the school. In addition they do not have to leave their homes and communities with all the attendant risks. Under the Third Education Sector Project Phase 1 (1998-2006) and Phase 2 (2006-2011), the Ministry of Education was able to build classrooms throughout the country supported by different donors to improve access to quality education for all Gambians (See Table 3):

- Additional resources from the Education for All/Fast Track Initiative (EFA/FTI) have greatly contributed to the provision of additional classrooms and provided the impetus to accelerating access to basic education. It has helped to close the gender gap through the development of appropriate policy, provision of sex disaggregated data and gender information, capacity building of senior management and provided

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<sup>2</sup> UNGEI, 2006.

the needed finance to close the funding gap. Generally, resources are more equitably distributed and better utilized for programme implementation.

- The School Curriculum: Reviews and updates of the curriculum have also resulted in a more relevant and, therefore, more responsive curriculum to stakeholders' needs<sup>2</sup>. The Life Skills Unit of the MoBSE developed a Life Skills Manual in 2008 for grades 4 and 5 of the Lower Basic Cycle with the support of United Nations Fund for Population Activities (UNFPA) and the World Bank. HIV/AIDS has been mainstreamed into the life skills programme.
- Awareness creation and sensitization activities through platform such as the weekly televised Education Forum, radio programmes and community meetings have increased public interest and knowledge on girl's education.

59. Adult and non-formal education:

- The Community Skills Improvement Project (CSIP) sponsored by the African Development Bank continued to deliver training for women and out of school youths with the view to enhancing self-employment ventures and entrepreneurship development. The project targeted 40,000 women and youth in 250 communities but was able to reach 32,377 (80.94%). The total number of participants who are now classified as literacy graduates is 12,678, representing 32% of the target<sup>3</sup>. The Integrated Functional Literacy Project sponsored by the Islamic Development Bank has designed a curriculum for 400 contact hours for 2,000 young men and women and produced didactic materials in the national languages in thirteen subject areas including agriculture, literacy, numeracy, health, nutrition, environment, forestry, life skills, livelihood skills, gender, governance, peace and security and human rights. Facilitators have been trained in the use of these materials and it is expected that the service providers will use them in their functional literacy classes.
- The World Bank is also supporting the Government of The Gambia, through the Ministry of Basic and Secondary Education to implement the Non-Formal Education (NFE) Component in the 3<sup>rd</sup> Education Sector. The program is strengthening the capacity of literacy providers (CSOs), Community Based Organisations (CBOs) and NGOs in order to develop effective and sustainable literacy, numeracy, life skills and income generating programs. The majority of the beneficiaries of this program are women.

60. Tertiary level: The gender and development course run by the Management Development Institute (MDI) contributes to the availability of a core of people with knowledge and skills in gender mainstreaming thus facilitating gender analysis and gender monitoring in the various sectors. The University of The Gambia (UTG) has introduced gender studies as a compulsory subject. The UTG has contributed in no small measure to the participation of girls at the higher levels of education. In 2008, girls' enrolment constituted 21.58% of the total as compared to 10% when the university was first established<sup>4</sup>. To give girls and young women a fair chance to participate in education at the tertiary level, programmes such as the ACCESS are run by the University of The Gambia, the RIFT (Remedial Instruction for Female Teachers) by The Gambia College and the extra mural classes by the Gambia Teachers Union (GTU).

<sup>3</sup> CSIP Contribution to the Beijing Platform For Action – BPFA Report.

<sup>4</sup> PRSP 11, Department of State for Finance and Economic Affairs, 2006.

61. CSOs involved in Education: The MoBSE has expanded the space for CSO participation in education at all levels ranging from policy formulation, implementation, service delivery, infrastructure development and monitoring and evaluation. This has increased public interest and involvement in education leading to a broadening and deepening of participation at all levels by key players such as the Education For All Campaign Network (EFANet), ChidFund, Voluntary Services Overseas (VSO), Peace Corps, Future in Our Hands (FIOH), GAMCOTRAP, SIMMA, Association for the Promotion of Women's and Girls Advancement (APWGA), Foundation for Women's Research and the Environment (BAFROW), Women in Service and Development (WISDOM), Forum for African Women Educationalist-Gambia (FAWEGAM), National Women's Framers Association (NAWFA), Pro-poor Advocacy Group (Pro-PAG), Gambia Teacher's Union (GTU), Girls Guide Association, Gambia Home Economics Association and Faith Based organizations:

- Mother's Clubs: The FAWEGAM-Mother's Clubs play a role in closing the gap between boys and girls in schools by generating income to cover the indirect cost of schools fees, give guidance and counselling to families and girls to promote the retention of girls in school and engage in environmental cleanliness of the school.
- The American Girls Scholarship Programme (AGSP) is jointly implemented by Education for All Campaign Network, FAWEGAM and BAFROW. From its inception in 2005, 1,600 girls in the Western region have benefitted from the programme which covers school fees, uniforms and books and mentors the girls to enhance their performance in schools. As a result of the declining enrolment of boys the scheme now covers 225 boys in the region.
- Partnership between the MoBSE and the Madrassa proprietors: The partnership with the General Secretariat for Islamic/Arabic Education and the MoBSE has contributed to boosting enrolments and enhanced access particularly for Muslim girls. It has broken the misconception that Muslim girls should not go to school as the Secretariat is not only advocating for girls education but is actually making provision for them within their educational system.
- Advocacy and Campaigning: The EFANet has implemented two projects (2006/2008) on inclusive education targeting girls and children with special needs and with support from Save the Children Sweden in collaboration with FAWEGAM, the Child Protection Alliance (CPA) and the Special Needs Education Unit. Under the 2008 project, A Child Friendly Version of the Sexual Harassment Policy has been developed by FAWEGAM with funding from Save the Children Sweden and disseminated to stakeholders.

62. In addition to the guarantees of gender equality in the 1997 Constitution, The Gambia has adopted the following gender equality legislation:

- The Children's Act, 2005, which while providing for the protection of the rights of the child in general, contains provisions on marriages and betrothals, issues specifically relevant to the girl child.
- The Trafficking in Persons Act, 2007, which establishes a National Agency against Trafficking in Persons and makes it an offence for a person to engage in trafficking in persons, widely defined under Section 28 of the Act. Among the members of the Board of the National Agency against Trafficking in Persons listed under Section 4(2)(j) of the Act are "four other persons from the private sector, two Non-Governmental Organisations with keen interest in the prevention and suppression of trafficking, especially in women and children".

- The Women’s Act 2010, a milestone gender equality legislation incorporating and domesticating all the legal provisions of the National Policy for the Advancement of Gambian Women and Girls, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa. The Act defines discrimination against women as “any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life”. Its wide ranging provisions, some of which are verbatim incorporation of the contents of the Convention and the Protocol, cover in:
  - Part II – the protection of women’s human rights;
  - Part III – Government’s obligation “to eliminate all forms of discrimination against women in all its institutions, agencies and organs, in line with its international obligations under the Convention and the Protocol”;
  - Part IV – temporary special measures “aimed at accelerating de facto equality between men and women”;
  - Part V – the prohibition of discrimination against women in employment;
  - Part VI – the elimination of discrimination against women in employment;
  - Part VII – the right of every woman to health and health care;
  - Part VIII – the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the informal non-monetized sectors of the economy;
  - Part IX – marriage and the family, including a widow’s rights; and
  - Part X – additional rights under the Protocol to the African Charter including the right to peace, protection of women in armed conflicts, the right to food security, the right to adequate housing, the right to live in a positive cultural context, the right to a healthy and sustainable environment, the right to enjoy sustainable development, special protection of elderly women, special protection of women with disabilities, special protection of women in distress, and a provision requiring all government departments and public institutions to provide budgetary resources to implement and monitor compliance with the Act;
- Part XI of the Act establishes a National Women’s Council, with an administrative Bureau, the Women’s Bureau to administer the affairs of the Council. Among the functions of the Council are:
  - Developing “methods for the integration and implementation of gender and women’s rights initiatives in all areas of Government activities;
  - Initiating education for all public officers and authorities regarding equality between women and men”;
  - Advising Government on Women’s rights issues, on the education and training of women in all fields of human activity, and on proper measures to be taken in mobilizing and integrating women as equal partners in the economic, social and cultural development of The Gambia;
  - Monitoring compliance with the Act through annual reports from all Government and public institutions; and

- Studying and advising Government on how traditional beliefs and practices can be reviewed and reformed to ensure the advancement of women and eliminating all practices harmful to women;
- The Council is also responsible for the preparation of the periodic reports under CEDAW, on behalf of Government, for submission to the Committee;
- A Bill on gender based violence has been drafted and CSOs are being consulted to integrate the provisions of the Bill in their awareness – raising activities particularly on gender based violence. Meanwhile the public is being sensitized about the scourge through radio and TV talk shows.

## Articles 4 and 5

63. Apart from the general limitations to the full enjoyment of the rights contained in the Convention imposed by the lack of adequate resources, and restrictions emanating from the application of personal law and customary practices, the Government has not derogated from the provisions of the Covenant. It should be noted, however, that the Constitution provides for the derogation from some of the fundamental rights and freedoms, namely, the right to personal liberty, the right to privacy, some of the provisions securing the protection of the law and fair trial and freedom of speech, conscience, assembly, association and movement during any period of emergency as long as such derogations are “reasonably justifiable for dealing with the situation that exists in The Gambia”.

## Article 6

64. The Gambia Government in its drive to reduce unemployment has created the Gambia Priority Employment Programme in partnership with UNDP and the International Labour Organization. The programme has a four-pronged integrated strategy to achieve its objectives, which are:

- Mainstreaming employment in national macroeconomic sector and social policies;
- Strengthening labour market policies and institutions;
- Establishment of an enterprise and skills development and training fund for self-employment (Get-fund);
- Promoting labour-intensive technologies in public works programmes to create employment and sustainable livelihoods.

65. The impact of the programme so far to achieve full employment under each of the four strategic objectives stated above is as follows:

- Mainstreaming Employment in National macroeconomic sector and social policies:
  - National Employment Policy and National Employment Action Plan updated for the period 2009-2014;
  - Report produced on impact of macroeconomic sector and social policies on employment and poverty;
  - Report produced on Capacity Assessment for Employment Policy formulation and programming of key Government Institutions;
  - A non-state actors network established for employment policy dialogue;
- Strengthening labour market policies and institutions:

- Report produced for the capacity assessment of the Labour Department and Employment Unit of the Ministry of Trade, Regional Integration and Employment (MOTIE);
- Establishment of an enterprise and skill development and training fund (GETFUND) for self-employment, under which the following have been achieved:
  - Business start-up capital provided to 23 National Youth Service Scheme (NYSS) ex-corps members (graduates);
  - Report produced on impact assessment and tracer study of NYSS graduates;
  - 47 females and 152 males from different regions of country trained in various marketable skills under NYSS;
  - Provided support to the National Youth Council (NYC) for the establishment of a food processing plant and Agro Business training;
  - Provided support to the Community Skills Improvement Project (CSIP) for the training of 140 women in various income generating skills;
  - Support to the President's International Award (PIA) for the completion of classroom structures and procurement of tools and equipment for the various workshops with view to improving the intake of students and quality of training for employability;
  - Provided support to the Women's Bureau for the training of 463 women in horticultural entrepreneurship, food processing and preservation techniques and poultry production;
  - Business start-up capital was provided to 363 women;
  - Provided Business start-up capital to 103 youths and women through National Enterprise Development Initiative (NEDI);
  - Support to the capacity building of training providers to enhance the quality of skills training by providing equipment and tools for the training;
- Labour Intensive Technologies in Public Work Programmes:
  - Pilot project in waste management and labour intensive technologies established;
  - Youth and women trained in labour intensive technologies in public works;
  - Support for the establishment of micro, small and medium scale enterprises on labour intensive technologies;
  - Support for the establishment of 2 job centres, one at Amra and the other at YMCA.

66. Although information on the impact of measures to facilitate re-employment of workers, especially women and long-term unemployed workers, who are made redundant as a result of privatization, downsizing and economic restructuring of public and private enterprises is not currently available, section 93 (2) of the Labour Act, 2007, requires an employer contemplating a dismissal for economic, organizational, climatic or technical reasons, including mechanisation and automation, to

“take all reasonable steps to secure that an offer of re-engagement or of suitable alternative employment within not more than six months of the date of dismissal is made in writing before the dismissal or as soon as reasonably practicable after the dismissal and, in the case of an apprenticeship, that suitable provision for

continuation of the apprenticeship or for employment as a journeyman has been made”.

67. Section 83(2) of the Labour Act provides a list of reasons not constituting valid reasons for dismissal or taking of disciplinary action, including an employee’s pregnancy or having to take maternity leave; an employee’s absence from work for a period of less than two weeks because of sickness or injury; an employee’s actual, perceived or suspected HIV/AIDS status; an employee’s removing himself/herself from a work situation reasonably believed to present an imminent danger to life or health; an employee’s exercise of a right to freely associate, including membership in trade union or refusal to join a trade union, participation in a legal industrial action, and refusal to do any work normally done by an employee engaged in industrial action; an employee’s refusal, except in situations of national emergency or grave emergency to his/her employer, to work for more than permitted by law, collective agreement or established work rule; the filing of a complaint or participation in proceedings against an employer; or the institution of police investigation involving the employee.

68. Section 84 defines “unfair dismissal” as a dismissal not in conformity with Section 83 or which is a constructive dismissal under Section 86.

69. Section 86 provides under the heading “Constructive dismissal” the following:

“An employee is entitled to terminate the contract of employment without notice or with less notice than the employer is entitled by any statutory provision or contractual term if the employer’s conduct has made it unreasonable to expect the employee to continue the employment relationship”.

70. Section 89 provides for notification and hearing before dismissal; Section 90 provides for proof of reason for dismissal; Section 91, for complaints of unfair dismissal to the Commissioner of Labour and Section 92 provides remedies for unfair dismissal by an Industrial Tribunal seized with the matter either ordering” ... reinstatement or re-engagement of the employee with such compensation, if any, as the Tribunal considers just and equitable”.

71. Thus far, two Industrial Tribunals have been established, in Banjul and the Kanifing Municipality, and the results of their hearings of complaints of unfair dismissal have generally vindicated the rights of employees, an increasing number of whom readily seek redress at the Tribunals.

72. The Gambia Priority Employment Programme (GAMJOBS) provides support for capacity building of training providers to enhance the quality of skills both technical and vocational by providing equipment and tools for training to the following technical and vocational training centers with the view to improving the intake of students and quality of training for employability:

- Shayk Mafous Training Institute;
- Insight Training Centre;
- Gambia Technical Training Institute;
- President’s International Award.

73. GAMJOBS was created in 2007 with a view to reducing unemployment and poverty, particularly among women and youth. It facilitates access to credit for productive investment and through its support for the promotion of labour intensive technologies in

public works, unemployed youth have been trained in the proper collection and disposal of domestic waste and in the production and laying of concrete pavement blocks.

## Article 7

74. Sections 110 to 117 of the Labour Act contain extensive provisions on Joint Industrial Councils for the following industries: commerce; artisans; transport; the port industry; and agriculture and fisheries established under Section 10.

75. Section 111 provides for the responsibility and power of the Joint Industrial Councils thus:

“(1) A Joint Industrial Council shall by agreement of a majority of representatives of employers and of trade unions, fix the minimum terms and conditions of employment of any employee or category of employees within the industries or job categories for which it operates, whether or not the employees are in management grades or are pensionable.

(2) A Joint Industrial Council shall fix minimum terms and conditions of employment for apprentices and, separately, for trained categories of works possessing trade certificates”.

76. Even though there exists the necessary legal framework for the establishment of a national minimum wage by Joint Industrial Councils for the categories of industries listed above, Joint Industrial Councils have not been constituted under the Act, and consequently a national minimum wage has yet to be established.

77. However, the Act does provide for voluntary collective bargaining. Section 212 provides:

“The Minister shall, on the joint application of an employer and a trade union, exempt any category of workers, industry or establishment from the operation of the relevant Joint Industrial Council agreement, if he or she is satisfied that there exists a machinery for voluntary collective bargaining sufficient to maintain adequate terms and conditions of employment in that category, industry or establishment.”

78. Such a collective agreement “is enforceable as a contract between the parties to the agreement” under Section 122.

79. Pending the constitution of Joint Industrial Councils, the machinery of voluntary collective bargaining spear-headed by the trade unions is being used in all the industries to ensure wages adequately reflect inflation trends and consumer price indexes. The use of this machinery has apparently obviated the need for industrial actions by workers.

80. Among the issues addressed by the draft Bill on violence against women and girls is that of sexual harassment in the workplace. Efforts are being made for the enactment of the Bill urgently. Meanwhile, public discussions of the issue are ongoing over the radio stations and the national TV station, Gambia Radio and Television Services (GRTS).

81. Section 72 of the Labour Act provides in subsection (i) that

“(i) An employer who engages an employee in an activity specified in the Second Schedule shall supply the employee free of charge, the safety equipment or safety device specified in that Schedule.”

82. The activities listed in the Second Schedule are the handling of goods or cargo likely to give off toxic fumes or dust, sufficient to cause danger of respiratory disease; working in a cold store; working in conditions with substantial risk of being struck by a falling object; working in conditions likely to cause the presence of any scalding or acid liquid on the ground or any object to fall on one’s feet; working in conditions in which there is a substantial risk of contamination of the skin by any carcinogenic, infectious or acid material; and engagement in inspecting, repairing or cleaning any sewer or drain or collecting contaminated or infectious rubbish.

83. The Schedule also prescribes the safety equipment such as a protective cloth, masks, goggles and helmets to be provided free of charge by the employer.

84. Subsection (5) provides that:

“A person who wilfully

(a) Destroys or damages a safety equipment device; or

(b) Obstructs the proper operation or use of the equipment or safety device, commits an offence and is liable on conviction to a fine of not less than twenty thousand dalasis or imprisonment for a term of not less than six months or to both the fine and imprisonment.”

## **Article 8**

85. There are no substantive or formal conditions to be fulfilled to form or join the trade union of one’s choice. The Labour Act only provides for the registration of trade unions and employers’ organization by the Registrar-General under Sections 96 to 106.

86. Section 107 gives workers and employers alike “the right to establish and join workers’ and employers’ organizations of their own choice in accordance with the Constitution and laws of The Gambia;” and Section 108 provides that “workers’ and employers’ organizations have the right to establish and join federations and confederations and any organization, federation, or confederation has the right to affiliate with international organizations of workers and employers, subject to the Constitution and laws of The Gambia.”

87. Among the constitutionally guaranteed fundamental rights and freedoms under Chapter IV of the 1997 Constitution are the freedoms under Section 25 “... to assemble and demonstrate peaceably and without arms”, and “... of association, which shall include freedom to form and join associations and unions, including political parties and trade unions.” There are general restrictions on the rights and freedoms under Section 25 including the right to strike in the public and private sectors, where such restrictions are reasonable and “necessary in a democratic society and are required in the interests of the sovereignty and integrity of The Gambia, national security, public order, decency or morality or in relation to contempt of court.” Such reasonable restrictions would be implied, therefore, where the taking of an industrial action would be likely to affect the continuation

of a service, the interruption of which would endanger the life, personal safety or health of the population.

## Article 9

88. There is no universal social security coverage in The Gambia. The Social Security and Housing Finance Corporation, a public enterprise, provides social security coverage in respect of old age (retirement benefits), employment, injury, disability, unemployment (redundancy benefits), survivors of deceased members, and orphans. However, sickness and maternity benefits are not available under the Corporation as Government departments and organizations provide these in the form of paid maternity leave and sick leave, with private organization and institutions providing health insurance for their employees.

89. As regards women, the Women's Act, 2010 provides for such benefits as follows:

Section 19 provides that:

“Every woman has the right to any available social security benefits, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave.”

Section 20 states that:

“(1) Every woman is entitled to a period of six months maternity leave with pay or with comparable social benefit without loss of employment, seniority or similar benefits.”

(2) In order to reinforce the common responsibility of men and women in the upbringing and development of their children, every father is entitled to a reasonable period of time not exceeding ten working days as paternity leave with pay, for every child delivered for him.”

90. Pensions are reviewed every three years to ensure that the minimum amount payable is sufficient at least to buy a bag of rice. The minimum amount presently stands at D700, an increase from the previous amount of D550. In the last review high income earners got 15% increment whilst low income earners got 83% increment. Such periodic reviews ensure that pension benefits are sufficient to provide a decent standard of living for recipients and their families.

91. The social security system does not guarantee non-contribution social assistance allowances for disadvantaged and marginalized individuals and families who are not covered by the contributory schemes. Such assistance is, however, provided by the Department of Social Welfare of the Ministry of Health and Social Welfare.

92. Public social security schemes of the Social Security and Housing Finance Corporation are supplemented by private schemes, called “Occupational Schemes”, available in major private institutions, particularly banks, under which employees get benefits upon retirement, in addition to the retirement benefits they receive from the Corporation. An informal arrangement, which is a contributory arrangement known as “osusu”, is very popular among workers and market women and provides short/term assistance to contributors.

93. The social security system in The Gambia is generally gender neutral. However, only women can retire on grounds of marriage even before the voluntary retirement age of 45, as stipulated under Section 53 of the Social Security Corporation Act 2010.

94. In the informal sector there are no social security programmes for workers in relating to health care, maternity and old age. Non-nationals do not benefit from non-contributory schemes for income support, access to health care and family support, as such schemes are contributory.

## **Article 10**

95. In addition to the provisions of Sections 19 and 20 referred to above, the Women's Act, in Section 21, provides that:

“21 Every woman has the right to protection of health and to safety, in working conditions, including the safeguarding of the function of reproduction.” and

Section 22 provides as follows:

“22(1) Every form of discrimination against women on the grounds of maternity is hereby prohibited.

(2) A woman shall not be dismissed from her employment on the grounds of maternity leave or on the basis of her marital status.

(3) An employer who contravenes the provisions of this section commits an offence and is liable on convictions to a fine of fifty thousand dalasis or imprisonment for a term of one year or to both the fine and imprisonment.”

96. Even though the provisions of the Women's Act, 2010, apply to every woman, it remains to be seen how effective they are in safeguarding the rights of women in atypical work and those who are not covered by work-related benefits. Some of the provisions of the Act are yet to be tested in this area to assess their effectiveness.

97. The Children's Act, 2005, contains extensive provisions protecting children and young persons in employment. Section 41 prohibits the engagement of a child, defined as a person under the age of eighteen years, in exploitative labour, being labour which “deprives the child of his or her health, education or development.”

98. Section 42 prohibits child labour at night that is “between the hours of eight o'clock in the evening and six o'clock in the morning.”

99. Section 43 provides that the “minimum age for the engagement of a child in light work is sixteen years,” light work being defined as “work, which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from school work.”

100. Section 44 prohibits the engagement of a child in hazardous work, that is, work that “poses a danger to the health, safety or morals of a child” including “going to sea; mining and quarrying; carrying of heavy loads; work in manufacturing industries where chemicals are produced or used; work in places where machines are used; and work in places such as bars, hotels and places of entertainment where a child may be exposed to immoral behaviour”.

101. Section 47 provides that a person who contravenes any of the above provisions “commits an offence and is liable on conviction to a fine not exceeding fifty thousand dalasis or to imprisonment for a term not exceeding three years or both the fine and imprisonment”. And under Section 49, the Department of Social Welfare “is responsible for the enforcement of the provision in the formal sector”, while a labour officer is responsible for their enforcement in the informal sector and for reporting any non-compliance to the Police “who shall investigate the matter and take appropriate steps to prosecute the offender”. (Section 48)

102. Section 66 imposes a duty on the Department of Social Welfare to “keep a register of children in need of special protection measures within its area of jurisdiction and give assistance to them whenever possible in order to enable those children grow up with dignity among other children and to develop their potential and self-reliance”.

103. The Department of Social Welfare provides social services to needy children, abandoned babies (foster care), elderly persons (with residential care), home-based care services and the disabled and operates a child family hotline. The Government’s plans in this area include research on social protection, child protection and disability and the development and implementation of programmes and plans of action including monitoring and evaluation.

104. The Department of Social Welfare has recorded successes in awareness raising, capacity building, training of partners on the promotion and prevention of child abuse and exploitation, protection of vulnerable adults and elderly persons.

105.

106. Despite resource constraints, the Department is currently providing education sponsorship for 1,500 needy children. It is also providing 30 abandoned babies with foster care, 150 children with shelter and support, 400 street children (almudos) with skills training and basic needs, 14 elderly persons with residential care and 20 persons with home-based care services, 5,000 disabled persons with artificial limbs and walking sticks and/or frames. It has also set up a child protection base for vulnerable children, a steering committee on orphans and vulnerable children and a National Action Plan on Orphans and Vulnerable Children. The Department also operates a child/family hotline and has trained 15 social workers on emergency preparedness. Social workers continue to provide the Children’s Court with home study reports on young offenders appearing before this court. As regards the protection of the economic, social and cultural rights of older persons, there is no specific legislation or mechanism for the protection of the rights of older men, probably due to the patriarchal nature of Gambian society. Elderly women, however, are accorded such protection under the Women’s Act, 2010, Section 53 of which reads:

“53. (1) The Government shall take appropriate measures to:

(a) Provide protection to elderly women and take specific measures commensurate with their physical, economic and social needs; and

(b) Ensure the right of elderly women to freedom from violence, including sexual abuse, discrimination based on age and the right to be treated with dignity.

(2) In this section, “elderly women” means a woman of sixty years of age and above.”

107. There is no known asylum seeker in The Gambia at present; The Gambia has been hosting refugees from the sub region, for whom with the assistance of the UN High Commissioner for Refugees adequate mechanisms for their assistance are in place. Refugees have come from Senegal, Sierra Leone, Liberia, Guinea Bissau and Mauritania.

108. The Women's Act, 2011, has provisions under Section 6 protecting women against violence "whether occurring in public or private life", and prohibiting "any form of violence against women", defined as "all acts perpetrated against women which cause or could cause them physical, mental and emotional, sexual, psychological or economic harm, including the threat to take such acts, or to undertake the imposition of arbitrary restriction on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflict or of war;" and "woman" is defined to include a girl-child.

109. The Act, however, has no specific provision relating to marital rape. The Ministry of Women's Affairs, headed by Her Excellency the Vice-President, and Women's Bureau, have formulated draft laws on Gender Based Violence and this includes a Domestic Violence Bill and a Sexual Offences Bill, 2011. Currently the Bills are under series of consultations with stakeholders in the public and private sectors, including CSOS who are encouraged to integrate the provisions of the draft laws in their awareness-raising activities.

110. The Female Lawyers Association of The Gambia (FLAG) is playing a prominent role to end impunity by providing legal aid to victims of violence. FLAG plays an advocacy role and carries out community based sensitization activities to inform and educate members of the public of its roles and functions so that people know where to go and what to do to seek redress. FLAG has also conducted a capacity building workshop for law enforcement agencies. Recently in December 2009 in a landmark legal case FLAG was able to secure the liberty of young girls who were wrongfully arrested and charged for being out in the streets at night. Similarly they have secured the release of an 18 year old girl who was incarcerated three years ago when she was a minor.

111. Violence against Girls Media Surveys has been undertaken by Action Aid The Gambia (AATG) as part of a wider survey conducted in eighteen countries. The media survey aims at compiling and reviewing cases of violence against girls as hindrances to their access, maintenance and achievement at school in a number of national media selected by Action Aid Country Offices. Quarterly reports of the Media Survey are published in hard copy and on the Internet and is widely distributed and shared with relevant stakeholders. The second issue covering the period of October to December 2009 shows that 31 cases of Violence Against Women and Girls (VAWGs) were carried on persons some as young as 2 years in different parts of the countries surveyed. Typology of cases ranged from infanticide, incest, rape, defilement and indecent sexual assault. The reports cover only the legal aspects of the cases and are focused on a summary of facts, testimonies, pleas of the parties/judgment and the sentence. The articles are not analytical enough to give a wider idea of the scale of VAGs phenomenon and do not show the action other stakeholders including Government, NGOS, justice, parents, the community and so on for the protection of the survivors.

112. The Government is, however, aware of the need to increase and sustain public awareness campaigns on gender based violence, particularly on domestic violence, which is based on socio-cultural perceptions of the woman's place and role in the family and as sex partners. The Gambia Government, through the Department of Social Welfare and the law enforcement authorities, have continued efforts to support victims, enforce existing laws and actively involve traditional institutions in the fight against all forms of violence. Due to

their consistent follow-up on cases of violence there have been convictions on gender based violence.

## **Article 11**

113. The right to water – Over the past years, The Gambia’s efforts to ensure access to safe drinking water have been effective. In 2009, 87% of the population had access to safe drinking water, an increase from 69% in 1990, thereby exceeding the MDG target of 84.5% by 2015. Although the water supply situation has generally improved in all the regions, the availability of electricity to pump the water still remains a major problem in rural areas. The progress of sanitation depends on adequate quality water and reliable electricity supply. The abundant groundwater resources in The Gambia will, according to the Government’s plans, be rationalized in its usage particularly in the light of the effect of climate change on water and sanitation.

114. The Government’s plans in this area also include improvement of operation and maintenance of water and sanitation facilities and governance of water resources and capacity building by training more engineers and managers. The objective is to increase equitable access of the entire population, particularly in the rural areas, to safe drinking water and sanitation services.

115. Meanwhile, the Government ensures that water services are affordable for everyone through the monitoring role of the Public Utilities Regulatory Authority (PURA) mandated to monitor, regulate and approve unit costs in consultation with the general public.

116. Massive sensitization and awareness-raising campaigns have been undertaken by Local Government Authorities to inform the population on the hygienic use of water and minimizing water wastage.

117. The Gambia is among the poorest countries in the world, ranking 151 out of 169 in the United Nations Development Programmes Human Development Index (HDI) for 2010. However, there are indications of a slight decrease in poverty since 1994 when The Gambia launched its first strategy for Poverty Alleviation. In 1998, about 69 per cent of the population lived on less than 1 US\$ a day, decreasing in 2003 to 58 per cent, according to the Integrated Municipality and the West Coast Region having the lowest poverty rates in 2003 that is, 7.6 per cent Banjul, 37.6 per cent in the Kanifing Municipality and 56.7 per cent in the West Coast Region. The poverty rates in the Central River Region were higher in 2003, the north of the Region having 94.0 per cent and the south 75.7 per cent. The national average dropped from 69 per cent in 1998 to 58.0 per cent in 2003 and further down to 55.5 per cent in 2008.

118. The 2010 Multidimensional Poverty Index (MPI) conducted for the United Nations Development Programme for the 2010 Human Development Report calculated that 34 per cent of the population lives below the \$1.25/day poverty line and 57 per cent live below the \$2/day poverty line, with an estimated national poverty line at 61 per cent in 2010.

119. The Government of The Gambia is committed to reducing poverty and has formulated a development strategy and investment programme for 2012 to 2015, called the Programme for Accelerated Growth and Employment (PAGE), which is the successor to the Poverty Reduction Strategy Programme II (PRSP II). As indicated by its name, PAGE’s main objective is to accelerate growth and employment, thereby reducing poverty and improving the well-being of the population.

## Article 12

120. There are three levels in the public health care system in The Gambia, namely, the primary, secondary and tertiary levels. The services rendered at the primary level include treatment of minor illnesses, environmental health and sanitation, antenatal care, delivery and postpartum care, home visits, community health initiatives and basic outpatient services. There are 492 health posts at the primary level. Basic health care at the secondary level is provided by minor and major health centres of which there are presently 38, the major centres serving as referrals for the minor centres. The 6 public referral hospitals at the tertiary level provide specialized services not available at the secondary level.

121. With the assistance of private and non-governmental organizations significant progress has been achieved in immunization system. The Ministry of Health, WHO, UNICEF and Rotary have since 1985 been conducting polio immunization campaigns twice yearly; measles immunization rate has raised from 87 per cent in 1991 to 96 per cent in 2009; and according to the National Malaria Sentinel Surveillance Study (2008/2009) malaria is on the decline.

122. Yet there are significant challenges in the health sector such as high population growth rate, shortage of financial and human resources and limited medical equipment and supplies. To address these constraints the Government plans to ensure accessibility and affordability of quality services, particularly for women and children and the establishment of basic health care packages and programmes at each of the three levels of the health care system.

123. The Government has an Environmental Health Policy 2004-2014 which shows that more than 80% of the population have access to health facilities. Additionally access to safe drinking water and sanitation has increased over the past years with the objective of reducing susceptibility of the population, particularly women and children, to water-borne diseases.

124. The Government has a zero tolerance policy towards illicit drugs with stiff penalties for offenders. Although the sale of alcohol is not as tightly controlled, the Government has recently expressed grave concern over the use of alcohol by young people and taken appropriate actions to reduce access to cheap alcohol. Smoking in public places is banned country-wide and so also is the advertisement of tobacco. Cigarette companies cannot support any sporting activity.

125. Facilities for mental health patients have been upgraded with the recent construction of a modern mental hospital and home with assistance from a private organization. Patients are allowed regular contact with visitors including groups of school children and are regularly attended to by doctors from the Royal Victoria Teaching Hospital in Banjul.

## Articles 13 and 14

126. See chapter II, section F, above.

## Article 15

127. The Gambia has accomplished the following towards strengthening the infrastructure to promote participation in cultural life:

- Museums:
  - Generally museums are seen as the repositories of material cultural heritage of a people. The presence of museums and their access to the public could therefore be seen as a yardstick for measuring the public's access to the cultural goods.
  - There are five public and three private museums in The Gambia. The public museums fall under the stable of The Gambia National Museums, and have branches at Wassu, in Ker Batch in the Central River Region, in Juffureh in the North Bank Region, and in Banjul. The public museums are found in Bakau in the Kanifing Area, and at Tanji in the West Coast Region. Thus people in five out of the seven administrative regions have direct access to a museum. These museums display cultural and historical items of all the peoples and religions of the country, and some have displays of objects from foreign countries thus making them truly representative and eclectic.
  - Access to museums by Gambians is enhanced because of affordable gate fees of D5 for adults and D1 for school children. All the museums have robust children's educational programmes including art classes, storytelling sessions in addition to the gallery visits. Indeed, children visitation formed 94 per cent of Gambian visits to the museums in 2010. Regular art contests help to encourage children to express themselves in drawing, painting, sculpture, etc.
- Festivals:
  - Another indication of the strides made by The Gambia in ensuring and enhancing access to heritage is the many festivals held in the country such as the Kanilai African International Festival, Roots Homecoming Festival and other local community festivals.
  - These festivals share a commonality of bringing together and uniting participants from all parts of the world, preserving cultural identities and practices, showcasing talent and selling The Gambia's positive image. Participation is free and massive thereby making the festivals veritable national events.
- Websites:
  - The Gambia has two UNESCO World Heritage Sites of James (Kunta Kinte) Island, and the Stone Circles. The merits of these sites and details on other Gambian heritage and cultural sites are well enunciated in the National Centre for Arts and Culture, NCAC, website [www.ncac.gm](http://www.ncac.gm). Pictures, video and interactive programmes make the website quite useful and accessible.
- Oral archives:
  - The oral archives of the NCAC house 5,000 cassettes and tapes of the oral history of all Gambian peoples and regions. It is a definitive repository of our collective memory and identity. It is open to historians and other researchers from all over the world.

128. Although culture is not formally taught in The Gambia, arts form part of the school curricula from the lower basic cycle to the secondary level and examinable by the West African Education Council (WAEC).

129. In the lower basic cycle students receive instructions in the Creative and Performing Arts and Handicraft. Arts and Craft, Sculpture and Technical Drawing are offered at the upper basic cycle, and Arts, Technical Drawing, and Home Economics are available at the secondary level. Private groups and institutions also perform plays, both for stage and television and some films have been produced featuring Gambia actors.

130. One of the fastest growing areas in scientific development in The Gambia is the information and Communications Technology (ICT) sector. Internet cafes have mushroomed in Banjul and the Kanifing Municipality with six (6) registered Internet Service Providers. There are four GSM service providers with a vigorous competition in the mobile, fixed wireless broad land and data services ensuring easy access to those services by the majority of the population. In pursuance of Government's goal in its Vision 2020 to transform The Gambia into a technologically advanced and information rich society, Government plans to modernize and expand the telecommunication infrastructure to extend communication and Internet services to other regions. This will boost economic development.

131. The Gambia Copyright Act of 2004 provides protection of copyright for literary work, artistic work, musical works, sound recordings, audio visual works, choreographic works, derivative works listed under the Act, and programme-carrying signals. The Act also protects by copyright an expression of folklore "against reproduction; communication to the public by performance; broadcasting, distribution by cable or other means; and adaptation, translation and other transformation, where the expression is made either for commercial purposes or outside a traditional or customary context" (Section 8).

132. The exclusive economic rights of the author or other owner of a copyright are protected under Section 9; and in addition to the author's economic rights in respect of the work to do or authorize the doing of any of a list of acts including the reproduction, translation, adaptation of the work, Section 10 gives the author of a copyright work "... the sole moral right, independent of his or her economic rights:

- To claim authorship of his or her work and, in particular, to demand that his or her name or pseudonym be indicated prominently on the copies and in connection with any public use of his or her work, as far as practicable;
- Not to have his or her name or pseudonym indicated on the copies and in connection with any public use of his or her work, as far as practicable;
- To object to and seek relief in connection with any distortion, mutilation or other modification of, or other derogatory action in relation to his or her work which would be prejudicial to his or her honour or reputation; and
- To alter the work at any time".

133. The Copyright Act, however, allows, under Section 16, the transfer of economic rights, but not including the moral rights, by assignment, licence, testamentary disposition or operation of the law. The protection conferred under Section 8 on expression of folklore does not extend to "fair dealing for private and domestic use ... the utilization for purposes of education or the utilization by way of illustration in an original work of an author ... provided it is compatible with fair practice or the incidental utilization of expressions of folklore". Works for public benefit such as an enactment, court decision, report by a

commission of inquiry news are not protected. The Act protects the right of the population to benefit from cultural expressions and enjoy their cultural heritage.

134. The Industrial Property Act has provisions for the protection of inventions, utility models and industrial designs. It defines a patentable invention as one that “is new, involves an inventive step, and is industrially applicable.” However, certain inventions are not patentable, in a bid “to protect the freedom indispensable for scientific research and creative activity”. Section 3(2) lists them as follows:

- “(a) Discoveries, scientific theories and mathematics methods;
  - (b) Plant or animal varieties or essentially biological processes for the production of plants or animals, other than microbiological processes and products of such processes;
  - (c) Schemes, rules or methods for doing business, performing purely mental acts or playing games; and
  - (d) Methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body”, but not applying to products for use in any of those methods.
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