

THE NATIONAL HUMAN RIGHTS COMMISSION (NHRC)



ANNUAL REPORT 2019



Kotu,
The Gambia



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ABBREVIATION AND ACRONYMS

ACDHRS	African Centre for Democracy and Human Rights Studies
APRC	Alliance for Patriotic Reorientation and Construction
AU	African Union
AUC	African Union Commission
CAT	Convention Against Torture
CDD	Centre for Democratic Development
CED	Convention on Enforced Disappearance
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CHRAJ	Commission on Human Rights and Administrative Justice
CPI	Corruption Perception Index
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organisations
DP	Development Partners
DPA/AUC	Department of Political Affairs of the African Union Commission
EIA	Environmental Impact Assessment
ESC	Economic, Social and Cultural
FGM	Female Genital Mutilation
GAMCOTRAP	Gambia Committee on Traditional Practices
GANHRI	Global Alliance of National Human Rights Institutions
GID	Gambia Immigration Department
GMC	Global Compact for Migration
GPF	Gambia Police Force
GPS	Gambia Prison Services
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
IHRDA	Institute for Human Rights and Development in Africa
IICI	Institute for International Criminal Investigations
IOM	International Organisation for Migration
JLO	Justice, Law and Order
KNCHR	Kenya National Commission for Human Rights
MoBSE	Ministry of Basic and Secondary Education
MoI	Ministry of Interior
MoLGL	Ministry of Local Government and Lands
NAATIP	National Agency Against Trafficking in Persons
NALA	National Agency for Legal Aid
NANHRI	Network of African National Human Rights Institutions
NEA	National Environment Agency
NGOs	Non-Governmental Organisations
NHRC	National Human Rights Commission
NHRI	National Human Rights Institution
NNHRIWA	Network of National Human Rights Institutions of West Africa
NYC	National Youth Council
OHCHR	Office of the High Commission for Human Rights
OHCHR-WARO	Office of the High Commission for Human Rights-West Africa Regional Office
PBSO	Peace Building Support Office

RFI	Radio France International
SDG	Sustainable Development Goal
TRRC	Truth, Reconciliation and Reparation Commission
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHR PMU	United Nations Human Rights Project Monitoring Unit
UNICEF	United Nations Children's Fund
UNOWAS	United Nations Office for West Africa and the Sahel
UNTJ	United Nations Transitional Justice
UPR	Universal Periodic Review
WHO	World Health Organisation

ACKNOWLEDGEMENT

Albert Einstein once remarked: "Every day I remind myself that my inner and outer life are based on the labours of other men, living and dead, and that I must exert myself in order to give in the same measure as I have received and am still receiving." So is it with our work. Our achievements in 2019 would have been impossible without the support, partnership, vision and encouragement of many individuals and organizations whose commitment to the promotion and protection of human rights and the building of a culture of human rights have sustained us in the course of the year.

We wish to commend the Government of The Gambia for having the foresight to establish the National Human Rights Commission. The singular support and encouragement of H.E Adama Barrow and the Ministers of Justice and Finance have been tremendous. They helped us to lay a strong foundation for the establishment of our Secretariat. We are doubly sure that they would continue this commitment, in our quest to live by the standards and criteria for an effective National Human Rights Institution envisaged in the Paris Principles.

We are grateful to the National Assembly, to the Honourable Speaker and members of the Standing Committee on Human Rights and Constitutional Matters in particular, for its dedication to our cause and continuous commitment to our mutual partnership.

The tremendous and enviable successes we have registered in our programme implementation could not have been possible without the technical and financial support of the UN Project Office, facilitated through UNDP- Banjul Office, UN Peace Building Support Office and OHCHR WARO Office. This support enabled us to rent our own office premises, purchase the much needed equipment and materials, enhance the technical capacity of our staff and other rule of law actors and institutions and develop our critical internal working documents and tools. To these valuable partners we owe a pound of gratitude.

Special mention is made of the team at the UN Transitional Justice Office at Kololi for accepting to host us there for several months, sharing their offices, printers, computers and even their coffee. We thank Julien Attakla, Awa J Peters and Ida Persson. We also thank all the other staff for their generosity and patience.

The Civil Society Organisations were the first to respond to our call for training, being our major stakeholders in this quest to nurture a culture of human rights in The Gambia. The Inspector General of Police, Mr Mamour Jagne, and his close deputies were very cooperative which led to the success of our training of police officers all over the country

Since the Commissioners were sworn-in, we had received great financial, technical, and moral support from many other quarters. The NHRC would like to extend its profound gratitude and appreciation to all of them, and to the following Ministries, institutions and organizations for their support, partnership, and encouragement:

- Ministry of Justice
- Ministries of Interior, Local Government and Lands, and Basic and Secondary Education
- The African Union Commission for seconding to us a very seasoned human rights lawyer and expert, Mr Judy Oder, whose commitment to work is unparalleled.
- Global Alliance of National Human Rights Institutions
- Network of African National Human Rights Institutions
- International IDEA
- Constitutional Review Commission
- Truth, Reconciliation and Reparation Commission
- Commission on Human Rights and Administrative Justice of Ghana
- Kenya National Commission for Human Rights
- Institute for Human Rights and Development in Africa
- TANGO Secretariat and Membership
- Mayors and Regional Governors
- Gambia Police Force
- Gambia Prisons Service
- Gambia Immigration Departments

We recognise that the list is inexhaustive, but to each of our donors and partners we owe a debt of gratitude and are very proud of our relationship. You all stood by us through our most challenging period, the setting up of our Secretariat, and we look forward to further building on this relationship in 2020.

FOREWORD



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

In addition to monitoring, receiving, investigating, and considering complaints of human rights violations; the NHRC recommends appropriate remedial action to the Government, seeks appropriate redress on behalf of victims and supports the Government in the formulation of appropriate policies and laws to guarantee human rights.



The work of the NHRC is accomplished through the unique skillset and expertise of five Commissioners in the areas of human rights, constitutional and international law, social justice, gender analysis and related areas



The work of the NHRC is accomplished through the unique skillset and expertise of five Commissioners in the areas of human rights, constitutional and international law, social justice, gender analysis and related areas. The five Commissioners were officially sworn in by the President of the Republic of The Gambia, His Excellency Mr. Adama Barrow, on the 14 February 2019

following consideration by a selection panel consisting of representatives of six Civil Society Organisations (CSOs), and final vetting by the National Assembly.

The National Human Rights Commission (NHRC) presents its 2019 Annual Report highlighting the role of the NHRC in supporting The Gambia as it transitions to a society that respects and upholds fundamental human rights. The Report showcases key achievements in this area, lessons learned and challenges, and reflects the collaborations and partnerships of the Commission in fulfilling its broad mandate of promoting and protecting human rights in The Gambia.

The goal of the NHRC is to serve everyone residing in The Gambia regardless of ethnicity, religion, social status, nationality, political affiliation, or any other status. In 2019, the

Commission prioritized the establishment of the Secretariat to effectively carry out its core functions of monitoring, receiving, and investigating violations of human rights.

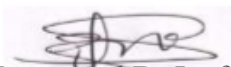
As the year progressed, it became clearer what critical role the NHRC had in strengthening state institutions to fully implement national and international human rights obligations. In this light, the NHRC focused on formulating guidelines and standards to support institutional capacity building of law enforcement and rule of law actors in efforts to support The Gambia Government nurture a culture of respect for human rights.

The goal of the NHRC is to serve everyone residing in The Gambia regardless of ethnicity, religion, social status, nationality, political affiliation, or any other status.

The strategies of the Commission to educate and raise awareness on human rights issues also became key as Gambians continue to play an active role in the transition of the country to a democratic society that upholds fundamental human rights standards.

During the year, the NHRC took significant steps to nurture strategic partnerships, both within and globally, with the objective of learning best practices and positioning the Commission to better serve the diverse needs of all.

As we look towards 2020, the Commission remains committed to ensuring that The Gambia is a country where rights are guaranteed by law and realized for every girl, boy, woman and man. We remain accountable to the people of the Gambia for the work that we do.



Emmanuel D. Joof
Chairperson

STATEMENT BY THE EXECUTIVE SECRETARY



The journey of a thousand miles, they say, begins with one step; one that can make all the difference. And so, it was with the swearing in of the five Commissioners of the first ever National Human Rights Commission of The Gambia, on 14 February 2019. They had the enormous task of building an institution of immense significance from ‘ground zero’. With no Secretariat but armed with indescribable commitment, personal resolve and sheer determination, these Commissioners started work in earnest. With financial and technical support from the Government of The Gambia, United Nations Development Programme (UNDP), Office of the High Commission for Human Rights (OHCHR) and the African Union (AU), they embarked on the development of key internal working documents, enhancement of their leadership and managerial skills, popularisation of their mandate and the Act that set up the Commission, and securing an official headquarters equipped with the necessary equipment and furniture.

While the Commissioners were creating visibility for the Commission, they simultaneously started the recruitment of key staff of the Secretariat: Executive Secretary, Deputy Executive Secretary, Finance Director, Head of Legal and Investigation Department and a Procurement Officer. Soon after, other staff members were recruited and by September 2019 we had a functional Secretariat with the best of professionals expected to be in the employment of a human rights institution worth its name.

... that creating a culture of human rights, [...] would require building of sustainable partnerships with the Government and other players, galvanising the whole society, stimulating discussions on human rights, enhancing capacity of critical duty bearers and changing attitudes and practices which have encouraged impunity and human rights violations.

With a work plan developed, the Commission embarked on more engagements with rule of law actors and institutions, Civil Society Organisations, communities, schools, Local Government Authorities, and other key stakeholders. We understand that creating a culture of human rights, after

about a quarter of a century of dictatorship, would require building of sustainable partnerships with the Government and other players, galvanising the whole society, stimulating discussions on human rights, enhancing capacity of critical duty bearers and changing attitudes and practices which have encouraged impunity and human rights violations.

Navigating through 2019 as a new institution and registering such tremendous achievements as we have, were by no means easy. Our 2019 Annual Report, which catalogues our achievements, challenges and lessons learned, comprises two parts: Part I focuses on the status of human rights in The Gambia while Part II highlights the programmes and activities we conducted.

As we prepare to redouble our efforts in 2020, to carve our own niche and be the *numero uno* protector of human rights in The Gambia, we encourage the State to guarantee the financial independence of the Commission as per the Paris Principles by making us a Budget Entity. In this way, we would not only be meeting a critical criterion of the Paris Principles but also ensure that we fulfil the mandate bestowed on us and take our services to every nook and corner of The Gambia.

With a Secretariat imbued with immense sense of service, vigour and dedication to duty, and a Commission supportive and encouraging, we pledge our firm commitment to the building of a culture of human rights in The Gambia. We remain true to our motto 'Let Justice Guide Our Actions'



Dr Cherno Omar Barry
Executive Secretary

EXECUTIVE SUMMARY

This Annual Report presents an overview of the activities and achievements of the National Human Rights Commission (NHRC) from the swearing-in of the five Commissioners on 14 February 2019 to December 2019. It catalogues the journey of the institution from ‘ground zero’ to the establishment of a fully-fledged Secretariat with key activities implemented, achievements registered, lessons learned, and challenges encountered.

A core mandate of the NHRC is to investigate and monitor existing and potential human rights violations. In 2019, the Commission investigated several alleged abuses and complaints of human rights violations ranging from the caste violence in the Upper River Region; the alleged death in police custody of Ousman Darboe, a high-profile case which sparked a riot in Serrekunda. The NHRC also issued press releases in response to human rights issues.

The activities implemented are varied and achieved in partnership with national and international institutions through the strategies of the NHRC, which include the following:

- a. awareness creation and public education,
- b. capacity building,
- c. networking and partnership building,
- d. advocacy and advisory role
- e. investigation and monitoring, and
- f. institutional strengthening.
- g. Complaints handling

Awareness creation was carried out using several platforms, such as sensitization workshops, radio programmes with partners, publication of quarterly newsletter, and nationwide stakeholder consultations. The positive feedback and general interest shown by the public in the work of the NHRC continue to motivate the innovation of multiple methods under the strategies employed to engage, educate, and connect more effectively with the general public.

Training workshops were conducted to **enhance the capacity** of both State and Non-State Actors in various aspects of human rights within the mandate and functions of the NHRC. Specific training workshops were also facilitated for the Commissioners and staff of the NHRC to enhance their knowledge and skills on human rights, leadership, the workings of the various UN and AU treaty bodies, as well as the effective functioning of a National Human Rights Institute (NHRI). To enhance its capacity building efforts, the Commission entered into a Tri-Partite Partnership funding agreement with UNDP, OHCHR and GANHRI.

Networking and collaboration are essential to the work of the NHRC. As a result, the Commissioners undertook a study visit to the Commission on Human Rights and Administrative Justice (CHRAJ) of Ghana, and participated in meetings organized by both the Global Alliance of National Human Rights Institutions (GANHRI) and the Network of African National Human Rights Institutions (NANHRI). The Commissioners also attended the 64th Session of the African Commission on Human and Peoples' Rights held in Sharma El Sheikh, Egypt. Staff of the NHRC also participated in several workshops organized in-country.

As part of its **advocacy and advisory role**, the NHRC prepared and submitted its stakeholder report to the Human Rights Council which considered The Gambia's Human Rights Report through the Universal Periodic Review (UPR) process in November 2019. In addition, the NHRC formulated and submitted to the Constitutional Review Commission, recommendations, and suggestions for inclusion into the new Constitution.

Investigation of human rights violations **and monitoring** of prisons and detention centres were carried out by the Commission and recommendations issued to the relevant institutions and communities for implementation.

In its efforts to **strengthen the institution**, the Commission recruited core staff of the Secretariat and secured an official headquarters in Kotu.

With regards to **complaints handling** during the year under review, the NHRC considered a total number of five complaints submitted between September - December 2019, and all these complaints except one were concluded. It also investigated allegations of torture leading to death meted against one Ousman Darboe by officers of Anti-Crime Unit as well as discriminatory practices among certain members of the Serahule communities in the Upper River Region.

Overall, 2019 was both an impactful and interesting year for the Commission. Despite our newness and the challenges of establishing a National Human Rights Commission from the ground up, the Commissioners and staff demonstrated great commitment and dedication to see it this farther.

THE COMMISSIONERS OF THE NHRC

The NHRC has five Commissioners as per the NHRC Act of 2017: two ladies and three gentlemen. The Chairperson is Mr Emmanuel Daniel Joof and the Vice Chairperson is Mrs Jainaba Johm. The three other Commissioners are Mr Njundu Drammeh, Imam Baba M Leigh and Dr Agnes Adama Campbell nee Kallay.

MR EMMANUEL DANIEL JOOF - CHAIRPERSON

Emmanuel Daniel Joof is a Gambian lawyer. He is a former Magistrate with vast experience in working with international organizations around human Rights, rule of law and access to justice issues spanning a period of over 25 years.

Emmanuel holds a master's degree (LLM) in International Law, majoring in International Human Rights Law from the University of Nottingham, United Kingdom. His work experience includes working with regional human rights NGOs namely: The African Society of International and Comparative law (ASICL) as the Legal Officer and head of the Banjul Branch Office and the African Centre for Democracy and Human Rights Studies (ACDHRS) as the Program Officer.



He has also worked with International Organizations such as the United Nations High Commissioner for Refugees (UNHCR) as Protection and Repatriation Officer ; United Nations Development Program (UNDP) as Rule of law Officer and as Access to Justice Program Manager; and International Development Law Organization (IDLO), an intergovernmental organization, as Legal Training Adviser and as Access to Justice Adviser.

In June 2018, Mr. Joof was appointed by the President of the Republic of The Gambia as Chairman of the Faraba Banta Commission of Inquiry to lead the investigation into the deaths, injuries and destruction of properties following a violent protest by civilians against a mining company, and to provide recommendations in preventing the occurrence of similar incidents and improving police duties and police crowd control capabilities.

Emmanuel is a past member of Amnesty International Banjul Chapter and founding member of the Coalition of the Human Rights Defenders, a civil society organization established in The Gambia in 2000 which, *inter alia*, advocated for the human rights of Gambians and those living within its jurisdiction and provided free legal services to victims of human rights violations especially those who could not afford the service of a lawyer.

Emmanuel has been a passionate human rights defender and his professional career has been geared towards helping those who have been victims of human rights abuse.

Emmanuel's educational background, experience, and career path in advancing the causes of human rights, rule of law and access to justice are some of the powerful assets he brings along as Chairman of the Commission.

MRS JAINABA JOHM – VICE CHAIRPERSON



Commissioner Jainaba Johm is a Barrister and Solicitor of the Supreme Court of The Gambia She holds a master's degree in Public International Law, Human Rights and Humanitarian Law, (M.I.L), from Lund University, Sweden.

Commissioner Johm has served in diverse capacities both nationally and internationally. She is a former Director of Civil Litigation and International Law at the Attorney General's Chambers, Ministry of Justice, The Gambia. She is a former Member, Special Rapporteur on Human Rights Defenders in Africa and Vice Chairperson of the African Commission

on Human and People's Rights, based in Banjul, The Gambia. She co-chaired a Working Group of the African Commission on Human and People's Rights' on Freedom of Expression in Africa, which produced the African Commission's 'Declaration of Principles on Freedom of Expression in Africa'. She also served as a Legal Consultant to the Mano River Union in Freetown, Sierra Leone; the African Centre for Democracy and Human Rights Studies in Banjul, The Gambia; the African Development Bank in Tunis, Tunisia; and the United Nations Office of the High Commissioner for Human Rights in Johannesburg, South Africa.

Her vast experience and consultancy work, among other expertise, makes her an asset in her role as the Vice Chairperson of the NHRC.

MR NJUNDU DRAMMEH - COMMISSIONER

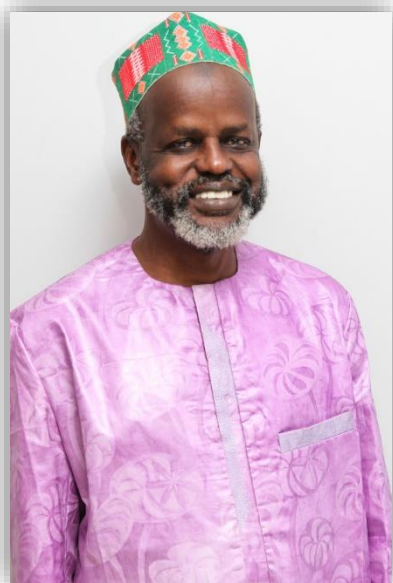
Prior to his appointment as Commissioner, Mr. Drammeh was the National Coordinator of the Child Protection Alliance, the only child rights coalition in The Gambia. Commissioner Drammeh worked with the Department of Social Welfare and served as a National United Nations Volunteer with UNICEF.



Mr. Drammeh is a child rights activist, with more than 20 years of experience in child rights and child protection law and policies in The Gambia. He is a trainer on national and international legal frameworks and standards relating to children, child protection and child rights programming.

His interests include women's rights promotion, gender-based violence and human rights in general which led to his role as facilitator in capacity building seminars in these areas. Commissioner Drammeh engages in advocacy and research on child protection and has great commitment to the cause of children. He loves reading, debate and music and has a Bachelor of Arts in Political Science from the University of Delhi.

IMAM BABA M. LEIGH - COMMISSIONER



An Islamic cleric, scholar and human rights activist, Commissioner Imam Baba Leigh started his career as a teacher and later assumed the role of Imam at the Kanifing Estate Mosque. He is an engineer by training from one of the top universities, Al Fateh University of Tripoli, Libya, and worked for the defunct Gambia Utilities Corporation for about 23 years. Commissioner Leigh also served as a member of the Hajj and Umrah Commission until the early 2000s. He was among the founding members of

GAMCOTRAP, a human rights organisation fighting against harmful traditional practices, including Female Genital Mutilation (FGM).

Imam Leigh's staunch support for the rights of the ordinary people and his outspokenness during the regime of former dictatorial President Yahya Jammeh landed him in prison where he suffered severe torture.

Commissioner Leigh lived in exile in the United States of America and returned home in 2017 after the regime change. He continues to advocate for the rights of the underprivileged, the minority and the oppressed.

DR AGNES ADAMA CAMPBELL NEE KALLAY - COMMISSIONER

Commissioner Agnes Adama Campbell is a trained and qualified midwife from the Gambia School of Nursing and Midwifery. She has practised as a clinical nurse and midwife, worked as an Integrated Community Health Advisor, and served at the Royal Victoria Hospital under the Ministry of Health and Social Welfare. Commissioner Campbell worked with key Non-Governmental Organisations such as CARITAS The Gambia, Action Aid International The Gambia, and Trust Agency for Rural Development for several years.

Her doctoral thesis focused on 'Violence against Women and its Intersection with HIV/AIDS' using a feminist participatory and action research approach. She has over 25 years of practical knowledge mainstreaming gender and health in social development projects focusing on health prevention and promotion.

Commissioner Campbell holds a BA in International Relations, a master's degree in Social Work, and an MA in Peace Studies from Nairobi, Kenya; Athens USA; and South Bend Indiana, USA, respectively.





PART I: THE 2019 STATE OF HUMAN RIGHTS IN THE GAMBIA

INTRODUCTION

Within its mandate guaranteed by Section 12 of the National Human Rights Commission Act 2017, the Commission hereby presents this report on the State of Human Rights Protection in The Gambia during the year 2019 in accordance with Section 33 of the Act. The report summarizes human rights issues covering broad categories with subsections including, respect for the integrity of the person, respect for civil liberties, the rights of women, the rights of Persons with Disabilities, the rights of children and their protection from all forms of abuse, discrimination, violence and other rights violations, economic, social and cultural rights including the right to health, the right to water and sanitation, unemployment, corruption, environmental rights, non-reporting to treaty bodies as well as the establishment of the National Human Rights Commission.

The report aims to provide an update of the state of human rights in The Gambia with focus on rights or themes as mentioned above.

The methodology for preparing this update entailed a comprehensive desk review of various reports submitted during the last Universal Periodic Review Cycle 2019 in which The Gambia was reviewed as well as information received by the NHRC during its work. Each section of the report examines selected rights or theme and proffers recommendations for the State's consideration.

The NHRC has, in the preparation of this report, conducted the necessary surveys, monitored and evaluated the status of human rights, as well as participated in all the necessary activities, both national and international, to be abreast with our adherence with the rules and regulations, conventions and most importantly, the constitution, with regard to the respect, protection and promotion of human rights of every individual within the jurisdiction of the state.



Convergence of Human Rights Experts from the Continent

1. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

I. Arbitrary Deprivation of Life

Section 18 of the 1997 Constitution of the Gambia guarantees the right to life to the effect that no person shall be deprived of his or her life intentionally except in the execution of a sentence of death imposed by a court of competent jurisdiction in respect of a criminal offence for which the penalty is death under the Laws of The Gambia ... and of which he or she has been lawfully convicted.

The Gambia ratified the 2nd Optional Protocol to the ICCPR aiming to the abolition of the death penalty and the NHRC commends the Government for accepting the recommendation during the 2019 Universal Periodic Review (UPR) to abolish the death penalty in line with her obligation under Article 1 (2) of the 2nd Optional Protocol to the ICCPR.

In 2017, the President of The Gambia, Adama Barrow, announced a moratorium on the use of the death penalty and since then there has been no execution in the Gambia.

Recommendations

1. The death penalty should be repealed and its reference in the Constitution, Criminal Code and Criminal Procedure Code be removed.
2. The draft 2020 Constitution presents an opportunity for the State to fully align with its commitments under the 2nd Optional Protocol to the ICCPR to prohibit execution and abolish the death penalty.

II. Enforced Disappearances

Unlike what was obtainable in The Gambia between July 1994 and December 2016, there were no known cases of forced disappearances in 2019. Many enforced disappearances carried out under the previous regime remain unresolved and are therefore continuing violations. The TRRC continues to hear testimonies from witnesses, survivors and next of kin as part of the on-going transitional justice process.

In 2018, The Gambia ratified the International Convention for the Protection of All Persons from Enforced Disappearance (CED). However, CED is yet to be enacted into law.

Recommendation

1. Provide full support to survivors and next of kin of those forcibly disappeared under the previous regime.

2. Enact a comprehensive law on enforced disappearance.
3. Popularise the Convention.
4. Set up an ‘Enforced Disappearance Persons’ Unit at the Ministry of Justice.

III. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

In 2018, The Gambia ratified the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT). However, to give effect to the provisions of the 1997 Constitution particularly Sections 19, protection of the right to personal liberty and section 21 protection from torture and cruel, inhuman, or degrading treatment or punishment, the CAT should be domesticated

According to reports which reached the NHRC from different media outlets in 2019, there were allegations of torture perpetrated by some members of The Gambia Police Force (Government agents). This was meted on one Ousman Darboe and Ali Cham commonly known as Killa Ace, a singer and youth activist, who was tried and convicted by the Kanifing Magistrates Court on 13 January 2020 with various counts including prohibition of conduct conducive to breach of the peace and assaulting a police officer. He was fined the sum of Eighteen Thousand and Five Hundred Dalasi in default to serve one-year imprisonment.

Recommendations

1. Amend the Criminal Code and criminalize torture.
2. Adopt domestic legislation to implement the Convention Against Torture and the Optional Protocol to the Convention Against Torture.
3. Promptly investigate allegations of torture particularly against Law Enforcement Officers and take appropriate steps
4. Take adequate measures to protect persons in police custody during pre-trial detention.

IV. Conditions of Prison and Detention Centres

Following the prisons and detention centres visit by the NHRC on 12 and 13 December 2019, the Commission found out that Jeshwang and Mile II prisoners continue to experience harsh conditions mainly due to overcrowding, inadequate sanitary conditions, and medical care. At the Remand Wing of Mile II, a cell built to accommodate 5 remand prisoners at a time was accommodating on average about 20 people. There were people on remand for about five years and many whose appeal cases are still pending. While there is improvement in the food of inmates since 2017, there

were complaints of insufficient and unbalanced diet in the food they were served. Absence of libraries, recreational and livelihood or vocational training facilities in both Jeshwang and Janjanburreh prisons were observed. The poor quality of prison facilities as well as the poor conditions of service for Prison Officers remain a huge concern. The lack of adequate office space and good sanitary facilities, and poorly ventilated cells were also noted at Kairaba, Banjul, Serrekunda, Brikamaba and Janjanburreh Police Stations. It was observed that the prisons and police stations visited lack vehicles for administrative and operational businesses.

Recommendations

1. Construct modern correctional facilities which meet international standards
2. Improve the living standards of prisoners and prison officers.
3. Provide good sanitary conditions in all the prisons and detention centres.
4. Provide well equipped medical facilities and trained medical personnel in all the prisons and access to medical services for detainees.
5. Provide well equipped libraries, recreational and vocational centres in all the prisons.
6. The Judiciary to institute mobile courts in all the prisons when necessary, to expeditiously dispense justice and decongest prisons.
7. Consider introducing diversion programmes (community service, probation, counselling etc) as an alternative to imprisonment for minor crimes.
8. Regularly renovate and upgrade police stations and provide adequate space and toilet facilities.
9. Ensure regular fumigation of all prisons and detention centres and cells to eradicate bed bugs and mosquitoes.
10. Provide the prisons and police stations adequate vehicles for operational and administrative purposes.
11. Provide adequate budgetary allocation to the Gambia Prison Services.

V. Protection of the right to personal liberty

Section 19 (1) of the 1997 Constitution of the Gambia provides that; every person shall have the right to liberty and security of person. No one shall be subjected to arbitrary, arrest or detention. No one shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law. Subsection (2) makes it mandatory for anyone who is arrested or detained to be informed within three hours, in a language that he or she understands, of the reasons for his or her arrest or detention and of his or her right to consult a legal practitioner.

Since 2017, about six soldiers alleged to be part of former President Yahya Jammeh's notorious hit squad locally known and referred to as "Junglars" were arrested and detained by the Gambia Armed Forces for their alleged involvement in the murder of many Gambians and non-Gambians during the Government of the Alliance for Patriotic Reorientation and Construction (APRC). Following the establishment of the Truth, Reconciliation and Reparations Commission (TRRC), all the arrested and detained soldiers appeared and testified before the TRRC. Four out of the six soldiers who gave their testimonies were released without any accountability for their alleged involvement in committing heinous crimes whilst the remaining two are still under detention. Families of disappeared persons from 1994 to 2016 deserved to know what happened to their loved ones and want justice to be done.

The NHRC is therefore deeply concerned with the release of the four soldiers and the continued detention without trial of the remaining two, having regard to the nature of the allegations against them.

Recommendations

1. Support the TRRC to complete its mandate.
2. Take interim measures to ensure that all the recommendations of the TRRC will be implemented.
3. Ensure that human rights violations perpetuated during the former regime are remedied and appropriate actions taken.
4. Prosecute all those accused of committing gross human rights violations.
5. Ensure clarity around the State's interventions in relation to the TRRC process.
6. Carry out consultations with relevant stakeholders before key decisions related to the TRRC process are taken and implemented.

VI. Right to fair trial within a reasonable time

Section 24 of the 1997 Constitution of The Gambia provides for the rights of an accused person to be tried within a reasonable time. The law also provides for presumption of innocence and representation by a lawyer of one's choice or to have one appointed at the expense of the State. Generally, the right to fair trial within a reasonable time has been respected by the relevant authorities, although in some cases the police did not promptly inform persons of the charges against them. During the NHRC visit to the various prisons in the country in December 2019, there were complaints from several inmates awaiting trial for years about the delay of their cases, while access to legal aid and counsel was

limited or impossible. There were equally allegations from some of those in remand that their Remand Warrants were unilaterally extended by the police without due process.

Recommendations

1. Decentralise offices of the National Agency for Legal Aid (NALA) throughout the country.
2. Provide adequate funding for NALA to attract and retain staff to better execute their functions.
3. Follow due process in the extension of all Remand Warrants.
4. Revive the High Court in Janjanburreh and make its operation permanent.

2. RESPECT FOR CIVIL LIBERTIES

VII. Freedom of speech and expression, including the press and other media

Section 25 (1) (a) of the 1997 Constitution guarantees the right to freedom of speech and expression, including for the press and other media. There has been improvement in the media environment during the year under review. These include decreased self-censorship which has lifted the climate of fear most journalist had operated under prior to 2017 when media coverage of sensitive topics could result in arrest, abduction or even disappearance. The NHRC welcomed the establishment of the Media Advisory Council and the draft Freedom of Information Bill 2019, as the importance of right to information law is immense, for government and citizens.

Notwithstanding the progress made so far in terms of media freedom, restrictive media laws remain in the Criminal Code and journalists are still at risk of intimidation, interference in the execution of their duties, arrest or assault by both police and political party supporters. For example on 8th July 2019, Modou Saïdy, a journalist working at Fatu Network and Roman Chanson, a reporter of Radio France International (RFI), were allegedly attacked by supporters of the Alliance for Patriotic Reorientation and Construction (APRC) outside the High Court Complex in Banjul for merely filming them. The supporters had come to the court premises to show solidarity with Yankuba Touray, former member of the Junta and Minister of Local Government and Lands who is standing trial in connection with the alleged murder of Ousman Koro Ceesay, former Minister of Finance, in June 1995.

Similarly, on 21st November 2019, three journalists namely, Ebrahima Jambang from Talents TV, Sally Jobe of Kerr Fatou and Landing Ceesay of Paradise TV were allegedly assaulted physically and verbally by supporters of President-Barrow at the Laminkoto ferry crossing

point. Following the incident, the Government issued a press statement apologising to the journalists and disassociating the Office of the President from the incident. However, no action has been taken against the alleged perpetrators.

Recommendations

1. Repeal all restrictive legislation contained in the Criminal Code particularly Sections 51 – 54 of the Criminal Code and ensure media freedom in the country.
2. Promptly investigate cases of attacks on journalists and bring alleged perpetrators to book.
3. Fully support the Media Advisory Council.
4. Enact the Access to Information Bill and ensure its full implementation alongside a public information campaign to increase awareness of individuals rights under the law.

VIII. Freedom of association and peaceful assembly

Section 25 (d) and (e) of the 1997 Constitution provides for freedom of association and assembly. However, prior to 2017, Government authorities particularly the Inspector General of Police (IGP) often restricted or denied this right based on powers conferred on the IGP by Section 5 of the Public Order Act.

The right to freedom of association and assembly are fundamental human rights that underpin a democratic society in which individuals can freely express their views on issues concerning the governance of their society. The demand to exercise these rights and freedoms in The Gambia has increased in frequency largely due to the emerging conducive democratic space since 2017. However, the enjoyment of these rights is often threatened by the application of the Public Order Act.

In a participatory democracy, the right to freedom of association and assembly remain an indispensable avenue for critical engagement between citizens and Government. These rights draw attention to issues of critical national concerns and therefore the need to safeguard them at all times, since its arbitrary application as was the case in the past, will not only undermine the basic foundations of democracy but also erodes the importance of the rights as a form of political dialogue.

On 16th June 2019, a Presidential Adviser reportedly made comments at a political rally in Brikama in the West Coast Region to the effect that would-be demonstrators risked being shot at if they conduct protests demanding that President Adama Barrow steps down after three years. The Adviser cited as a warning the April 10 and 11 of 2000 incident in which fourteen

Gambians were shot at following demonstrations by school children as reference to what could happen again. These utterances were strongly condemned by the NHRC and other Civil Society Organisations.

The NHRC recognised Government's commitment to protect the right to association and assembly despite its shortcomings. However, the NHRC is concerned that the Public Order Act Amendment Bill 2019 is yet to be tabled before the National Assembly and adequately popularised.

In 2019, there were three reported cases of denial of permit: one to the Gambia Democratic Congress (GDC), to hold a political rally but this decision, according to media reports, was later rescinded following heavy criticism and constant engagement between GDC and the IGP; the second was the Occupy Brikama Area Council protest organised by youths in Brikama; and the third was the "Three Years Jotna" on their first request. By law, the IGP is given a wide discretion with little or no oversight to either grant or deny request for permits.

Recommendation

1. Amend Section 5 of the Public Order Act and move away from the requirement of police "permit" to "notification" to fully guarantee the enjoyment of the right to association and peaceful assembly.
2. Review the Public Order Act in its entirety and align the provisions therein with The Gambia's regional and international obligations.
3. Popularise the Public Order Act Amendment Bill and engage all the relevant stakeholders.
4. Ensure the Public Order Act Amendment Bill is tabled before the National Assembly.

3. RELIGIOUS FREEDOM

Section 25 (1) (c) guarantees the right of freedom to practice any religion and to manifest such practice. Freedom of religion is an individual right but has a collective aspect also. It means the right to hold spiritual beliefs and to live by them, whether in private or in public, alone or in community with others.

According to reports, certain people from Kerr Mot Hali village in the Central River Region claimed that they were unlawfully evicted from their village in January 2009. They also claimed that they were subjected to constant persecution, harassment, and unlawful arrest and detention by security personnel claiming to be acting under executive directives emanating from the former President, Yahya Jammeh for practicing their religion, a brand of Islam, in a way and manner not approved by the then Alkalo of the village and his followers.

In 2017, the affected villagers instituted a civil action before the High Court of The Gambia to enforce their fundamental rights and judgment was entered in their favour when the Court, inter alia, issued perpetual injunction restraining the Alkalo of the village, Inspector General of Police, Attorney General and Governor of Central River Region from preventing them from practicing their religion in the Village of Kerr Mot Hali.

Following the judgment of the High Court, several attempts were made to enforce the orders of the Court through legal means but to no avail.

Similarly, the Ahmadiyya Muslim community according to reports, continue to face discrimination on account of their beliefs by the mainstream Muslim religious leaders and members of the community with little or no intervention from the Government.

Recommendations

1. Respect the fundamental rights of everyone including the right to practice any religion and to manifest such practice.
2. Ensure that Court decisions are adhered to and enforced.
3. Guarantee and protect the rights of the people of Kerr Mot Hali village and members of the Ahmadiyya Muslim community.

4. RIGHTS OF WOMEN

The Gambia accepted recommendations issued by the Human Rights Council Working Group on the Universal Periodic Review 2019 relating to strengthening implementation of policies and programmes for the empowerment of women in social and political life; eradication of discrimination against women, and prevention of sexual and gender-based violence.

In spite of the existence of plethora of national, regional and international legal frameworks which promote and guarantee the rights of women such as the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol), the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, the 1997 Constitution of The Gambia, the Women's Act 2010, Trafficking in Persons Act 2007, the Sexual Offences Act 2013, and the Domestic Violence Act 2013 and the Government's efforts to promote the economic, social and political leadership of women, gender inequality continues to be a major challenge. There is no shelter for victims of domestic and sexual violence whilst women and girls in The Gambia continue to face challenges in the enjoyment of their rights. They still face discrimination, most of which are underpinned by socio-cultural and religious beliefs. FGM, child marriage, high maternal mortality, weak enforcement of laws, poor representation in elective bodies, inadequate

access to education and employment opportunities, amongst others, severely restrict women's full enjoyment of their human rights in The Gambia.

Recommendations

1. Institute measures, including through legislation, for gender quota in all elective bodies at local and national levels, by allocating a minimum 30 per cent of seats to women.
2. Accelerate effort, in line with SDG 3, to reduce drastically, incidents of maternal mortality.
3. Effectively enforce and implement the Domestic Violence Act 2013, Sexual Offences Act 2013, and Women's Act 2010.
4. Establish shelters for victims of domestic and sexual violence.
5. Mainstream gender in government's sectoral policies, particularly, implementation of gender affirmative actions.
6. Expand access to education, vocational training, and credit for women, with adequate indicators and monitoring mechanisms to track progress.

5. RIGHTS OF PERSONS WITH DISABILITIES (PWD)

Section 31 of the 1997 Constitution provides that “the right of the disabled and handicapped to be respected 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.” The Government acceded to the UN Convention on the Rights of Persons with Disabilities and its optional protocol since 2015. There is also a draft Disability Bill which seeks to domesticate the Convention. However, the said draft Disability Bill is not yet enacted into law. There is no national Disability Policy and the last quantitative national survey or study on persons with disabilities was conducted in 1998. Persons living with disabilities continue to face numerous challenges and artificial barriers. Their inherent rights are yet to be fully respected, promoted and protected. They also face challenges in terms of equal opportunities for scholarships and training, including provision of relevant facilities and equipment as well as in employment.

Recommendations

1. Enact the Disability Bill into law as soon as possible and provide adequate financial and technical resources for its implementation and enforcement.

2. Develop and implement a National Disability Policy.
3. Institute measures, including through legislation, to make all public buildings and facilities disabled-friendly and accessible to persons with disabilities.

6. RIGHTS OF CHILDREN AND THEIR PROTECTION FROM ALL FORMS OF ABUSE, DISCRIMINATION, VIOLENCE AND OTHER RIGHTS VIOLATIONS.

In 2015, the Government amended the Women’s Act 2010 to prohibit Female Genital Mutilation (FGM), while in 2016 it amended the Children’s Act 2005 to prohibit child marriage and set 18 years as the minimum legal age for marriage. In March 2019, the Government created the Ministry of Women, Children and Social Welfare to strengthen the protection of the rights and welfare of women, children, and other vulnerable members of the society.

FGM is a deep-rooted harmful practice which endangers the health of women and girls, while impeding their dignity and bodily integrity. According to The Gambia Multiple Indicator Cluster Survey 2018, FGM prevalence is 75.7 per cent, 88.2 per cent of children aged 1-14 years experienced one form of physical punishment and or psychological aggression by a caregiver, 24.7 per cent of children age 5-17 years were involved in child labour and 7.5 per cent of women aged 20-24 were married before 18 years.

Corporal punishment is prevalent in both schools and homes and is only prohibited as a measure of punishment by the court. The Gambia continues to experience challenges in tackling trafficking in persons including children, and in implementing legislations prohibiting child marriage, child labour and FGM.

The United States Department of State’s ‘Trafficking in Persons Report-June 2019’ downgraded The Gambia to ‘Tier 3’ because the country ‘does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so...’ Thus, The Gambia remains a source, transit and destination country of children subjected to human trafficking. Anecdotal evidence and media reports point to the prevalence of sexual abuse and exploitation of children in the communities, including in the tourism sector. However, there has not been any study or research on the sexual abuse and exploitation of children in The Gambia since 2003.

The State has not yet acceded to the Optional Protocol to the Convention on the Rights of the Child on a communication procedure.

Recommendations

1. Effectively enforce and implement the legal provisions which prohibit FGM and child marriage.
2. Effectively enforce the Trafficking in Persons Act 2007 and adequately enhance the financial and technical capacity of National Agency Against Trafficking in Persons (NAATIP).
3. Effectively implement the Tourism (Amendment) Act 2014 and prosecute alleged offenders.
4. Raise awareness on and develop appropriate responses to the socio-cultural and religious drivers of FGM.
5. Accede to the Optional Protocol to the Convention on the Rights of the Child on a communication procedure.
6. Conduct a comprehensive study on the sexual abuse and exploitation of children in The Gambia.
7. Prohibit corporal punishment of children in all settings.

7. RIGHTS OF LESBIANS, GAYS, BISEXUALS AND TRANSGENDER

Human rights violations based on discrimination are persistent worldwide, and Lesbian, Gay, Bisexual, and Transgender (LGBT) are no exception because of their actual or perceived sexual orientation and gender identity. The different type of violations suffered by this group demonstrates that members of sexual minorities are highly vulnerable to human rights violations and abuses.

In The Gambia, like in most countries, it is an offence to commit “unnatural offences” or homosexual acts. Section 144 (1) of the Criminal Code stipulates a punishment of fourteen years imprisonment for anyone convicted of homosexual acts. On 9th October 2014, the “Criminal Code (Amendment Act) 2014” was passed in the National Assembly which stipulates a maximum sentence of life imprisonment for the offence of ‘aggravated homosexuality’ and other penalties for certain homosexual acts already criminalised under the Criminal Code.

The LGTB community in the Gambia endured harsh treatment, arrests, violence, and intimidations in the former regime. However, with the defeat of dictatorship in the December 2016 Presidential elections and the birth of ‘New Gambia’, the climate of fear and impunity under which the LGTB community used to live has receded to the rear. While there is still perceptible public animosity against LGBTs, the State has so far respected the rights of this specific minority group. The Criminal Code (Amendment) Act 2014 has not been enforced and thus no member of the LGBT community has, since 2017, being subjected to State sponsored or approved intimidation or arrest.

As the primary duty bearer for the respect and protection of the human rights of all persons, regardless of sexual orientation, tribe, sex, religious or other status, the State has the obligation to fight impunity, discrimination, violence, bullying and human rights violation perpetrated against every person living in The Gambia, including the LGBT community. It also should create the environment for everyone to enjoy his or her rights and to protect members of the LGBT community from physical or psychological harm, injury, or abuse by other sections of the society.

Recommendations

1. Take legal and other measures to protect the human rights and equal treatment of LGBT persons.
2. Deepen efforts to combat acts of discrimination and violence against LGBT persons.
3. Create a culture of tolerance for diversity and differences.

8. ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Much attention has been given over the years to the distinction between, on the one hand, economic, social and cultural rights such as the rights to adequate standard of living, education, health, clean environment and equal participation of both women and men, and, on the other hand, civil and political rights such as the right to life, right to liberty and fair trial, the freedoms of speech and expression including media freedom, and freedom of assembly. There is indeed a significant difference between the two as far as the nature of states obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) are concerned.

While Article 2 of ICESCR provides for progressive realization of economic, social and cultural rights and acknowledges the constraints due to limits of available resources, the parallel Article 2 of ICCPR prescribes the obligation to respect and ensure all civil and political rights as an immediate obligation. Despite this difference, all rights – political, civil, social, cultural, and economic – are equal in importance and none can be fully enjoyed without the others. Both sets of rights are indivisible and interdependent and apply to all equally, as everyone has the right to participate in decisions that affect their lives.

The UN Committee on Economic Social and Cultural rights affirmed that while the full realization of relevant rights may be achieved progressively, states should take deliberate, concrete, and targeted steps towards meeting the obligations recognized in the Covenant. States must not take regressive steps which are in contradiction to the progressive realisation principle and constitute a violation of these rights-unless they have been duly justified and

weighted against the enjoyment of other economic social and cultural rights. Regressive steps include all acts of omission or of commission on the part of the state, which deprive people of rights that they used to enjoy.

In The Gambia, Economic, Social and Cultural rights are not enforceable rights under the 1997 Constitution. Most of these rights remain in the realm of “progressive realisation”. The UN Committee on Economic, Social and Cultural Rights in its concluding observations on the initial 2015 report of the Gambia also made recommendations to the State with regards to fulfilling the people’s economic, social and cultural rights and imposes various obligations such as elimination of discrimination, provision of free and compulsory primary education and protection of children and young persons from economic and social exploitation as of immediate effect.

According to the Integrated Household Survey 2015/2016 conducted by the Gambia Bureau of Statistics, poverty is high, with 48.1 per cent of the population living in poverty; only 79.4 per cent of rural households have access to improved drinking water and literacy rate of male and female is 61.8 per cent and 41.6 per cent respectively. Unemployment is high at about 35.2 percent.

The 2019–Corruption Perception Index (CPI) Report ranked The Gambia 96 out of 180 countries, with a CPI score of 37. Corruption has the resultant effect of negatively impacting the enjoyment of economic and social rights.

Though there is access to basic social services and facilities, public hospitals and schools are inadequately funded, and quality of services are equally poor. Nonetheless, the Government has increased the salaries of its civil servants by 50 per cent across the board, an initiative already being implemented in 2019.

9. RIGHT TO HEALTH

Although the right to health is not guaranteed as a fundamental human right in the 1997 Constitution of The Gambia, it is a fundamental objective and directive principle of state policy in Chapter XX of the Constitution. However, The Gambia is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Under Article 12 (1) of ICESCR State Parties recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The right to health extends to adequate healthcare, the underlying preconditions for health, and adequate fulfilment of the social determinants of health. Similarly, Article 12 (2) sets out the main directions for State action in fulfilling this right. According to this provision, States must take steps for:

- a. The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child.
- b. The improvement of all aspects of environmental and industrial hygiene.
- c. The prevention, treatment, and control of epidemic, endemic, occupational, and other diseases.
- d. The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

In its General Comment number 14, the Committee on Economic, Social and Cultural Rights has specified that the right to health involves the following elements and State obligations.

- a. Availability: States must ensure that functioning public health and healthcare facilities, goods and services are available in sufficient quantity. The precise nature of these facilities, goods, and services will however depend on numerous factors, including the State party's level of development.
- b. Accessibility: health facilities, goods and services must be accessible to everyone. Accessibility in this regard has four overlapping dimensions.
 - i. Non-discrimination
 - ii. Physical accessibility
 - iii. Economic accessibility (affordability) and
 - iv. Information accessibility (the right to seek, receive and impart information and ideas concerning health issues).
- c. Acceptability: all health facilities, goods and services must be respectful of medical ethics and culturally appropriate, sensitive to gender and lifecycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.
- d. Quality: health facilities, goods and services must be scientifically and medically appropriate and of good quality. This requires, inter alia, skilled medical personnel, scientifically approved and unexpired drugs, appropriate hospital equipment, safe and potable water, and adequate sanitation.

Thus, the Committee has urged all State Parties to adopt and implement a national public health strategy and plan of action, based on epidemiological evidence, addressing the health concerns of the population. It has also advised that the strategy and plan of action should be devised, and periodically reviewed, based on a participatory and transparent process.

The Gambia's health sector is guided by the Gambia National Health Sector Strategic Plan 2014-2020 and more than 20 other health policy documents. The overall objective for 2014-

20 is to reduce inequalities in health care services and reverse the downward trend in health-related outcome indicators.

According to a 2019 report, *Assessment of the Health System in the Gambia*, nearly all of the population in The Gambia lives in close proximity to a fixed facility and most have reasonable road access though road travel to some communities is compromised during the rainy season. However, 28 percent of women responding to The Gambia Demographic and Health Survey reported that distance to a health facility was a barrier to accessing care. Data extracted by the MOH and provided to the authors of the report indicate that only about 40 percent of rural villages have access to services by a community health worker.

According to the MICS 2018 survey, under-five mortality in The Gambia is at 57 per 1,000 live births; infant mortality is at 41 per 1000 live births; and neonatal mortality is at 31 per 1,000 live births. There has been a steady decline in mortality rates, however for neonatal mortality (deaths occurring within the first 28 days of life) there has been a slight increase from the last 5 years from 28 to 31/1000 live births. A WHO, UNICEF, UNFPA, World Bank Group, and the United Nations Population Division 2019 report on trends in Maternal Mortality estimated maternal mortality rates in The Gambia to be at 611 per 100,000 live births.

Whilst the NHRC commends the Government for adopting a National Health Policy and Health Master Plan 2014-2020 and its strides to promote the right to health in the country, the NHRC recognises the challenges faced by the health sector.

Recommendations

1. Ratify and domesticate the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
2. Include in the new Constitution a guarantee and justiciability of all economic and social rights in conformity with existing treaty obligations.
3. Take steps to ensure that all persons, particularly those in rural areas, women and girls, have access to quality health information, goods, and services, including by allocating increased resources to the health sector, training of health extension workers and ensuring provision of adequate and quality medical equipment and supplies to health facilities.
4. Reduce the high rate of maternal and infant mortality, including by ensuring the availability of comprehensive sexual, reproductive, and child health services, and that all births are assisted by a skilled birth attendant.
5. Develop and fund national programmes to overcome unemployment and under employment, particularly among women and youth.

6. Increase allocation to the health sector by about 15% of the National Budget to meet the target set in Abuja Declaration of 2000.
7. Intensify the implementation of the National Health Policy Framework.
8. Increase efforts to reduce and prevent maternal morbidity and mortality by implementing programs and policies, as well as ensure adequate sexual and reproductive health services.
9. Strengthen vital statistical systems which are essential to understanding and tackling infant and maternal mortality.

10. THE RIGHT TO WATER AND SANITATION

The Human Right to Water and Sanitation is defined as the right of everyone to sufficient, safe, acceptable, and physically accessible and affordable water for personal and domestic uses.

In 2019, the Government launched the Climate-friendly Rural Water Supply and Sanitation Development Project supported by development partners. Through the project, the government will construct 20 municipal waste collection and recovery centres, as well as the rehabilitation and extension of two waste landfills.

UNICEF reports that 61.8 per cent of the population has access to improved sanitation, with 1 per cent still practicing open defecation, and only 30.9 per cent of the population practicing hand washing with soap or other detergents. Efforts to ensure access to safe drinking water have been effective over the past years. Children and their families in The Gambia have gained improved and equitable access to and utilize safe drinking water with 90 per cent of the population accessing improved water sources in 2018 from 86 per cent in 2010, however only 34 per cent (one third) of households are using safely managed drinking water services.

Recommendations

1. Ensure universal access to safe drinking water and to adequate sanitation facilities, particularly in the rural areas.
2. Consider alternative solutions to conventional sewerage systems, as they can be more appropriate in hard-to-reach communities.
3. Consider alternative solutions to conventional sewerage systems, as they can be more appropriate in hard-to-reach communities, can be more affordable alternative to standard sewers.

11. UNEMPLOYMENT

The Gambia's Decent Work Country Programme for the period 2015-2017 was extended to 2019. The Programme, facilitated by the International Labour Organisation is a collaboration of the State, the Gambia Chambers of Commerce and Industry and the Gambia National Trade Union Congress. Its focus is the attainment of decent work for all in the Gambia. The Programme's key components are rights at work, employment, social protection, and social dialogue overseen by a committee representative of employers, workers, and the government.

Unemployment, in The Gambia was at 35.2% according to the Gambia Labour Force Survey 2018. Youth unemployment rate is 41.5%. The Decent Work Programme document indicates that unemployment remains a critical determinant of poverty, which has over the years, contributed to the rising population of Gambians living in poverty. More women are unemployed than men, and young women face more constraints in joining the labour force compared to young men. Factors which hinder young women joining the workforce include low education and skills, cultural attitudes and practices and limited opportunities to access productive resources affecting their lives negatively leading to vicious cycle of poverty.

Recommendations

1. Develop, fund, and implement an employment policy to address unemployment and underemployment, particularly among women and youth.
2. Create initiatives to assist young women join the work force.

12. CORRUPTION

President Barrow has reiterated his intention to rid the country of pervasive corruption and a culture of impunity. In 2017, the Government set up a commission of enquiry to investigate the financial activities of former president Yahya Jammeh, those of his family and close associates. In September 2019, the report which includes, detailed recommendations to the State was published.

Recommendations

1. Pass into law the Anti-Corruption Commission Bill
2. Establish the Anti-Corruption Commission
3. Fully implement the Janneh Commission's Report.

13. ENVIRONMENTAL RIGHTS

In The Gambia, the struggle to curtail environmental degradation caused by sand mining and factories, indiscriminate dumping of garbage and to enhance local participation over resources found within communities provides a context to examine the role of human rights in supporting environmental goals.

It could be recalled that the Faraba Banta Commission of Enquiry that was set up by the President in July 2018 to look into the violent incident that led to the deaths, injuries and destruction of properties following clashes between the villagers of Faraba Banta and the Police Intervention Unit who were deployed to enforce the mining activities of Julakay Quarry and Mining Limited. During the year under review, the issues which the Faraba Banta Commission was set up to investigate were not fully resolved. The Commission of Enquiry made the following observations and recommendations.

- I. That a proper Environmental Impact Assessment (EIA) should always be carried out by an independent consultant who is not an employee of the National Environmental Agency (NEA) or the Geology Department and proper consultations should always be made with all the relevant stakeholders in the affected localities before any sand mining is to be approved and conducted .
- II. That proper consultations are not usually carried out with the respective stakeholders in the communities by the licence operators, the NEA, and Geological Department. The Commission from their discussions with the various stakeholders in Sanyang, Gunjur and Faraba Banta discovered that the communities were usually informed about mining activities and the construction of factories in the respective localities only after licences were issued to the mining operators and companies.
- III. That a proper EIA be conducted before license are issued and mining allowed to be conducted or factories constructed, and for the authorities i.e. NEA and the Geological Department to be constantly monitoring the licence holders to make sure that they are adhering to the terms and conditions set forth in the licence granted to them especially with regards to environmental degradation and pollution.
- IV. The Commission also observed that no efforts were made by the mining companies to level the ground, or somehow rehabilitate the mining area to mitigate the effects of mining at the end of their mining activities.
- V. That Fishmeal factories operated by the Chinese in Gunjur and a Mauritanian in Sanyang were polluting the surrounding areas by the emissions and foul waste from the said factories.

- VI. That issues surrounding land ownership and land use is a source for potential conflict in various communities exacerbated by many unresolved conflicts surrounding the private sale and transfer of landed properties and the disputed ownership and use of communal and farmlands in Kombo South, namely Gunjur, Sanyang, Teneneh, Tujereng.
- VII. That the customary and traditional system of “land borrowing” and “land lending” has been discarded, denigrated, and rendered meaningless due to the realization of the commercial value of land.
- VIII. Whilst the NHRC commends Government for implementing the recommendation on compensation by paying the sum of One Million Dalasi to families of each of the three individuals who lost their lives in the Faraba Banta shooting in June 2018 and providing monetary compensation to those that have been injured. However, the Government is yet to fully implement all the recommendations especially those relating to the environment.

Recommendations

1. Carry-out an Independent and thorough Environmental Impact Assessment before mining is allowed in any locality or factories are constructed in any area
2. Monitor the activities of licence holders.
3. Address all concerns of the members of the community on issues relating to environmental pollution.
4. Adopt measures to prevent pollution and ecological degradation.
5. Operationalise and support the full functioning of the Land Commission.
6. Implement all the recommendations of the Faraba Banta Commission at the earliest possible time



Courtesy call to the Honourable Chairperson from guests from the United Kingdom

NON-REPORTING TO TREATY BODIES

The Gambia is a party to many regional and international human rights treaties. It has ratified and acceded to all the core United Nations and Regional human rights instruments; International Convention on Civil and Political Rights and its Second Optional Protocol, Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol and the African Charter on the Rights and Welfare of the Child.

In 2015 The Gambia acceded to the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol but only submitted the instrument of accession in 2017. As per Article 35 of this convention, the initial report was due in 2019. However, up to date, no report has been submitted to the Committee on the Rights of Persons with Disabilities. Similarly, no State report has been submitted in relation to the following ratified international legal instruments: Optional Protocol to the CRC, on the Sale of Children, Child Prostitution and Child Phonography, both of which were ratified in 2010, Convention Against Torture and Cruel, Inhuman and Degrading Treatment or Punishment (ratified in September 2018); International Convention on the Protection of the Rights of All Migrants Workers and Members of their Family also (ratified in September 2018).

At the regional level, The NHRC commends the Government for submitting its initial report on the African Charter on Human and Peoples' Rights in 2019. Whereas Article 62 of the African Charter requires The Gambia to submit a periodic report every two years, from 1994 to 2019, no other report was submitted to the African Commission on Human and Peoples' Rights.

Similarly, since The Gambia's ratification of the African Charter on the Rights and Welfare of the Child, it has not submitted any initial or periodic report. The past two decades (1994-2016) witnessed the backlog of State reports to the African Committee of Experts on the Rights and Welfare of the Child.

However, since 2017, bold steps have been taken by the Government to address the backlog of State report to treaty bodies and the first among them was the establishment and inauguration of the Inter-ministerial Taskforce on treaty body reporting comprising of various stakeholders. The Government has also prepared a draft combined initial, first, second, third, fourth and fifth reports on the implementation of the African Charter on the Rights and Welfare of the Child.

Whilst the NHRC commend Government for fulfilling its reporting obligation under the ICCPR and the African Charter on Human and Peoples' Rights after more than two decades

of delay in submitting these reports, the NHRC is concerned with outstanding reports to the following treaty monitoring bodies;

- a. The African Committee of Experts on the Rights and Welfare of the Child
- b. Committee on the Rights of Persons with Disabilities
- c. Committee on the Rights of the Child
- d. Committee Against Torture
- e. Committee on the Protection of All Migrant Workers and Members of their Families.

Recommendations

1. Prepare and submit all pending reports to treaty bodies.
2. Strengthen and support the Inter-ministerial Taskforce on treaty body reporting under the Ministry of Justice.
3. Provide relevant training to all the stakeholders of the Inter-ministerial Taskforce.
4. Establish and support the functioning of a National Mechanisms for Reporting and Follow-up.



Courtesy call of the Special Rapporteur on Human Rights to the Commission

ESTABLISHMENT OF THE NATIONAL HUMAN RIGHTS COMMISSION

In December 2017, the National Assembly of The Gambia passed into law the National Human Rights Commission Act of 2017 which was assented to by the President in January 2018. The Act establishes the National Human Rights Commission (NHRC). The members of the Commission were sworn in on 14 February 2019. The tenure of office of the members is three years, renewable for another and final term. However, in line with the standard regarding tenure of members of the Commission of National Human Rights Institutions, the NHRC recommended the extension of tenure of the Chairperson and other Commissioners to five and four years respectively with the possibility of extension for one further term in order to ensure continuity of the work of the Commission. This recommendation was accepted and incorporated into the draft 2020 Constitution.

In pursuance of its mandate, the NHRC proactively engaged the Government of The Gambia, as the primary duty bearer, and collaborated with strategic partners during the year under review to promote and protect human rights in The Gambia as highlighted in Part II of this report.

While the NHRC made significant progress in performing its functions as per the NHRC Act 2017, it continues to face financial and technical challenges in the implementation of its activities.

Recommendations

- a. Amend the National Human Rights Commission Act 2017 and make the tenure of office of the members a minimum of 5 years for Chairperson and 4 years for the other Commissioners, renewable for one further term, in line with the norm for most National Human Rights Institutions in Africa.
- b. Allocate adequate resources to the NHRC, in line with the Paris Principles, to enable it to effectively carry out its mandate.
- c. Provide permanent premises for the NHRC both as a headquarters and regional offices
- d. Provide the necessary facilities (vehicles, office equipment, furniture, and fittings, etc.) for the effective functioning of the Commission

CONCLUSION

The presented report of the state of human rights above, has mainly been guided by the 1997 Constitution as well as regional and international human rights treaties.

It is evident that with the coming of the change in political dispensation in 2017, there has been a lot of improvements in the promotion and protection of human rights in The Gambia. It is also evident that there are many areas that need much improvement.

The strategy used in the report is to highlight all the key areas reflected in the UPR recommendations, the monitoring and evaluation activities the Commission is tasked to do (prison visits, review of legislation and other legal instruments, complaints handling and review of reports – regional and international – of human rights issues vis-a-vis The Gambia) to be able to provide the necessary recommendations.

The NHRC became fully operational in August when the key members of the Secretariat were appointed. The report however covers the entire year of 2019, and reflects, as much as it can, the status of human rights in The Gambia during this period.

Considering that this is the first report ever on the subject written by an independent body, established by an Act of the National Assembly and recognised internationally by virtue of its existence in line with the Paris principles, The Gambia can proudly consider this as a great leap towards mapping itself within the global list of countries adhering the good governance and respect for human rights.

The second part of the report will give concrete rendition of the numerous efforts of the Commission in preparing the nation towards that state and in ensuring that the people and the stakeholders – duty bearers, right holders and advocates – are all actively playing their roles in promoting and protecting human rights in The Gambia.

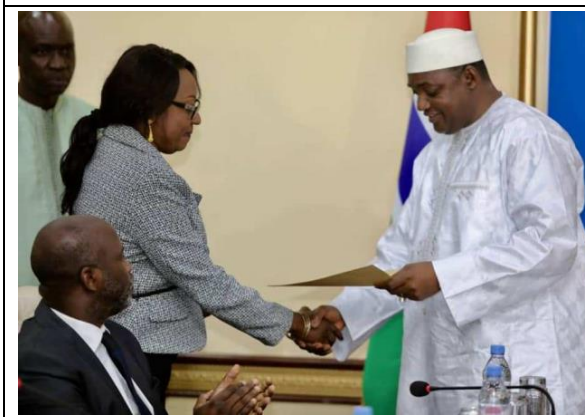














PART II: THE 2019
ANNUAL REPORT OF
ACTIVITIES

INTRODUCTION

Any institution would be excused for not preparing an annual report of activities, as is required of each state institution benefitting from support from Government and spending taxpayer's money to respond to national duties. The National Human Rights Commission arrives at a very interesting stage of the new dispensation which started in 2017. With the guidance of the Minister of Justice and Attorney General, in 2017 a bill is passed at the National Assembly to establish a national human rights commission, the last of four Commissions: the Jannah Commission – which digs over the financial wrong doings of the previous government; the Constitutional Review Commission – which works on producing a draft Constitution for the Third Republic; the Truth, Reconciliation and Reparation Commission (TRRC) – which investigates the human rights violations of the former president; and the National Human Rights Commission – the only permanent one among the four, mandated to promote and protect human rights in The Gambia.



A friendly handshake between the representative of the Attorney General and Minister of Justice Mr Hussaini, and Mr Sebihogo, the Executive Director of NANHRI as the IDEA International Representative watches on...

INSTITUTIONAL BUILDING

Setting up the NHRC, building the frameworks, the enabling environment, systems, and policies formed the bulk of the work of the Commission in 2019. Laying the foundation for a strong institution that ensures the rule of law in The Gambia motivated the NHRC to acquire the talent across various disciplines, nurture and enhance the capacities of both Commissioners and Secretariat staff. In this light, a series of capacity building exercises including internal and external trainings and study tours or exposure to existing Human Rights Institutions were organized to learn best practices.

14. STUDY TOUR TO THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) & GLOBAL ALLIANCE OF NATIONAL HUMAN RIGHTS INSTITUTIONS (GANHRI): 4TH – 7TH MARCH 2019

With the technical and financial support of the United Nations Transitional Justice (UNTJ) Project, four Commissioners of the NHRC embarked on a study tour to Geneva, Switzerland. Meetings with various departments of the Office of the High Commissioner on Human Rights (OHCHR) were held. The team participated in the 2019 Global Alliance of National Human Rights Institutions (GANHRI) meeting (from 4th to 7th March). The study tour presented the Commissioners the opportunity to collaborate and network with Commissioners and personnel of other National Human Rights Institutions (NHRIs) and engage with OHCHR colleagues and Departments to discuss the workings of the OHCHR, the best practices adopted by other NHRIs, and to explore the possibility of being supported by the OHCHR. More importantly, the study tour increased the Commissioners' understanding of the scope of their mandate, and raised awareness of their roles as a NHRI, thereby helping them gain the necessary skills to establish networks and linkages between the NHRC and other NHRIs globally. Experts based at OHCHR in Geneva also assisted in strengthening group dynamics within the NHRC.

15. ORIENTATION RETREAT FOR THE COMMISSIONERS, SINDOLA, 12 - 14 MARCH 2019

While the track records of all five Commissioners of the NHRC demonstrate expertise and commitment to the cause of advancing and protecting human rights, it was important to provide them at the earliest opportunity, a refresher on international Human Rights standards and frameworks, to help further their understanding of the NHRC mandate, and lay the foundation for fruitful discussions on the functioning of the NHRC.

The overall objective of the orientation was to ensure that the newly sworn-in Commissioners are reoriented on global human rights principles and frameworks which will facilitate the localization of international policies and frameworks. The orientation focused on fundamental values, such as, independence, integrity, inclusivity, professionalism, transparency and accountability and mainstreaming gender, which will lay the foundation for the effective functioning of the NHRC.

The retreat strengthened the knowledge and understanding of the Commissioners on key international instruments and mechanisms for promotion and protection of human rights, ensured a common understanding of the National Human Rights Commission Act 2017, and the mandate and powers of the Commission, promoted a cohesive understanding of the Paris Principles; strengthened team-building efforts with a view to creating a positive and constructive team for successful implementation of the mandate. Additionally, it offered a platform to engage in dialogue on how best to structure and operationalize the NHRC.

On the other hand, the retreat offered a safe and welcome space for the newly appointed commissioners to get better acquainted with each other, realize and appreciate the strengths and weaknesses of fellow Commissioners, unify, and to complement each other in realizing the goals of the Commission. The Commissioners had the opportunity to share experiences and elaborate on strategies that will boost the NHRC as an independent and gender sensitive national institution, in full compliance with the Paris Principles.

16. DEVELOPING INTERNAL FRAMEWORKS, POLICIES AND GUIDELINES – 19TH – 21ST MARCH 2019.

From the 19th to 21st of March 2019, the National Human Rights Commission (NHRC) organised a workshop to develop key internal documents. The event was consultative, held in collaboration with the PBSO, OHCHR, and UN Transitional Justice Project Management Unit.

Key outputs of the workshop were the vision, mission statements and Strategic Objectives of the Commission. The participants identified and scrutinized documents fundamental to the functions of NHRC. These vital documents included the Standard Operating Procedures, Admissibility Criteria, Complaints Procedures and Manual, Investigation Procedures and Manual, Human Resource Handbook, Finance Procedures manual, Complaints Form, Code of Conduct, FAQs, Communication Strategy and Vehicle/transport Policy.

Documents of established NHRIs such as those of Zimbabwe, Kenya, Liberia, Ghana, Malaysia, and Uganda served as guidance, taking into the consideration the contextual needs and specific requirements of the NHRC.

17. CONTRIBUTION TO THE 2020 DRAFT CONSTITUTION

In fulfilling its mandate to the Gambian people, the NHRC made recommendations to the Constitutional Review Commission (CRC) of the Gambia for potential inclusion into the new constitution comprehensive fundamental rights and freedoms in the following key areas: the bill of rights, citizenship, voting rights for prisoners and Gambians in the diaspora; dual nationality and public office; the Executive powers; presidential term and age limits; death penalty; right to education; economic, social and cultural rights; right to clean environment; protection of children from economic exploitation; rights of persons with disability; youth; rights of women and religious freedom (full text is reproduced in Annex I).

18. THE 64TH ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS (ACHPR) – 24TH APRIL – 14TH MAY 2019.

At the 64th Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR), The Gambia presented its human rights report to the ACPHR, highlighted notable achievements, and responded to follow-up questions and concerns raised during the review session. The Chairperson and Commissioner Drammeh participated in this forum held at the International Conference Centre in Egypt, from 24th April to 14th May 2019. The Commissioners also took part in the “Regional Follow-up and Review of the Global Compact for Migration” side event held on 23 April 2019, organised by the Working Group on Migration of the Network of African National Human Rights Institutions (NANHRI).

The participation of the NHRC in these sessions of the ACPHR provided the Commissioners the opportunity to network with NGOs and other NHRIs present, gain insights on the challenges and lessons learned from these NHRIs in the course of implementing and fulfilling their human rights obligations and advisory roles.

19. SUB-REGIONAL CONSULTATION NETWORK OF NHRIS, GHANA – 29TH TO 31ST MAY 2019

From the 29th to 31st May 2019, NHRC's Chairperson, Emmanuel Daniel Joof, attended the Sub Regional Consultation Network of NHRIs in West Africa and the Sahel held in Ghana, and organised by the Regional Office of the United Nations High Commission for Human Rights West Africa Regional Office (OHCHR-WARO), the United Nations Office for West Africa and the Sahel (UNOWAS), the Economic Community of States of West Africa (ECOWAS), the Network of National Human Rights Institutions of West Africa (NNHRWA) and the Sahel.

The meeting offered an opportunity to enhance the sharing of experiences and lessons learned between NHRIs, focusing mainly on compliance with the *Paris Principles*, the role of NHRIs in achieving the Sustainable Development Goals (SDGs), the role of NHRIs in implementing a *human rights-based approach to migration*, including the implementation of the Global Compact for Migration (GMC), and the role of NHRIs in promoting peace and security in West Africa and the Sahel.

20. STUDY VISIT TO THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE (CHRAJ), GHANA 2ND – 6TH JULY 2019.

As a newly established NHRI, it was essential that the Commission, at the initial stages, was equipped to fully understand the scope of its domestic mandate, as well as its role in human rights protection and promotion in the region and globally. Undertaking a study tour to a National Human Rights Institution counterpart, preferably in West Africa, was considered a great opportunity and learning exercise. As the NHRC gradually built its institutions, it was crucial to receive practical advice and guidance from a well-established and fully functioning NHRI, operating in the same region and under similar legal, socio-political, and economic context as The Gambia.

From 2nd-6th July 2019, Commissioners of the NHRC visited the Commission on Human Rights and Administrative Justice (CHRAJ), to familiarize themselves with the day to day functions of an ‘A status’ West African NHRI with similar powers and mandates. Through this Study Tour, the delegation was also exposed to the extensive track record of CHRAJ in advancing all aspects of the rule of law in Ghana including on issues related to the judiciary, law enforcement agencies and the correctional system. The CHRAJ is widely accepted within the United Nations (UN) system and Office of the High Commission on Human Rights (OHCHR), as one of the leading NHRIs in West Africa.

Commissioner of CHRAJ, Mr. Joseph Whittal, Deputy Commissioner, Mr. Richard Quayson, Directors, and selected staff, took the NHRC delegation through several presentations which gave an overview of CHRAJ and its structure and set-up. The sessions covered the operations of its Human Rights, Anti-Corruption, Administrative Justice, Public Education, and Research Departments, as well as, investigations practice and procedures. Sessions on Human Rights Mechanisms, including Treaty Bodies, Universal Periodic Review (UPR), UN Special Procedures, and engagement with key stakeholders (government agencies, rule of law institutions, Development Partners (DP), and Civil Society Organizations (CSOs) were also covered. The Commissioners visited the Head Offices of sister institutions, namely, the National Commission for Civic Education (NCCE), and the Commonwealth Human Rights Initiative (CHRI) in Accra, Ghana. After the visit, Commissioners gained practical experience

of the functioning of CHRAJ; an important link between the two sister institutions was established.

21. LEADERSHIP ORIENTATION FOR COMMISSIONERS AND STAFF OF THE NHRC, 10 - 12 SEPTEMBER 2019

Building a national institution that monitors, ensures, and upholds human rights, and responds to needs The Gambian context requires strong leadership and commitment. With the support of the United Kingdom Foreign and Commonwealth Office and the Norway Representative to the African Union, the NHRC organised a leadership training and orientation for all staff and Commissioners, and representatives from the TRRC, CRC and other rule of law institutions. It was facilitated by the Department of Political Affairs of the African Union Commission (DPA/AUC), the Network of African National Human Rights Institutions (NANHRI), and International IDEA. The activity was organized within the framework of the Joint Programme with IDEA on Structural Preventive Diplomacy in areas of Democratic Governance in Africa.

This workshop was tailored to support effective implementation of the NHRC's programme, contribute to a *human rights-based transition to the democratic dispensation*, and enhance the skills and capacity of Commissioners and secretariat staff on strategic planning, programme design, implementation, and prioritization, and community outreach. In addition to educating staff on the Security Sector Reform processes, the workshop enabled the Commissioners to define and understand the linkages between the NHRC, the Truth Reconciliation and Reparations Commission (TRRC), and Constitutional Review Commission (CRC), exploring the most effective ways to build on these relationships to promote and protect human and peoples' rights in the country.

The Commissioners and staff learned invaluable lessons from NHRIs in countries transitioning to democracy and those that are 'Status A'. As an outcome of the workshop, the NHRC developed a draft activity plan on sequencing of activities related to the establishment phase of the institution, and specific ways to engage with on-going transitional justice and security sector reforms.

22. AWARENESS CREATION: NUTURING A CULTURE OF RESPECT FOR HUMAN RIGHTS: NATIONWIDE SENSITISATION TOUR – 1ST-7TH OCTOBER 2019

Eager to create a culture of respect for human rights in The Gambia, and aware of the importance of engaging and strengthening partnerships with state institutions and local government structures, Non-State Actors, and communities, in the promotion of human rights, the NHRC embarked on a nationwide sensitization tour from the 1st to the

7th of October 2019. During the visits, NHRC met and discussed key human rights related issues with Mayors, Regional Governors and senior Government officials, chiefs, Alkalos, religious leaders, CSO representatives, youth, and women leaders and among others.

National Consultations in West Coast Region



National Consultations in Upper River Region



During its engagement with more than 350 participants, the NHRC had the opportunity to raise awareness of its mandate amongst key stakeholders in the regions. Commissioners and staff were able to gain better understanding and appreciation of the work carried out by stakeholders in the communities, and the potential role those regional stakeholders could play in supporting the work of the NHRC. The meetings were organized in partnership with the Peace Building Support (PBS), Office of the High Commissioner for Human Rights and United Nations Transitional Justice and Human Rights Project Management Unit (TJHR PMU).

23. THE DAY OF THE AFRICAN CHILD, 16 JUNE 2019

By commemorating key recognized international human rights events, the NHRC seized the opportunity to raise awareness and engage stakeholders at different levels to strengthen a culture of respect for human rights.

Through the financial support of the UNTJ Unit of UNDP, and in partnership with the Truth, Reconciliation and Reparation Commission (TRRC), NHRC marked the Day of the African Child 2019 by organizing a *Vox Populi* which was facilitated by children, and aired on both GRTS and QTV.

As the main topic of this *Vox Populi* was ‘*The Gambia We Want*’, children were engaged to share their views on the future of The Gambia. During this engagement, the -children described what they envisioned ‘New Gambia’ to look like, and the changes they hope for, so that every child will enjoy his or her rights. The children also discussed what mechanisms and systems they believed the Government, UN Agencies, NGOs, media, and all adults needed to put in place to ensure they were able to reach their maximum potentials.

The engagement highlighted areas of interest in relation to children and The Gambia’s transitional justice and reform processes, and what all the key stakeholders needed to consider in the course of carrying out their work in order to build ‘A Gambia for All Children’.

24. INTERNATIONAL HUMAN RIGHTS DAY – 10TH DECEMBER 2019

Human Rights Day is observed yearly on 10th December, the day the United Nations General Assembly adopted the Universal Declaration on Human Rights (UDHR) in 1948. The UDHR is a milestone document proclaiming the absolute rights of every human being regardless of race, colour, religion, sex, language, political or other opinion, national or social origin, property, birth, or other status.



High table delivering statements

On December 10th, the NHRC Joined the rest of the world to commemorate Human Rights Day on the theme “Youth Standing up for Human Rights” and ‘The role of youth in advancing the 2030 agenda’.

As part of activities marking International Human Rights Day, the Chairperson of the NHRC delivered a Paper at the *"Justice for GH44: A Shared Responsibility of Ghana and The Gambia"* Forum organised in Accra, Ghana, by the Centre for Democratic Development (CDD) in collaboration with Jammeh2Justice Ghana Coalition .

He used this unique opportunity to urge the Governments of The Gambia and Ghana to launch thorough investigations into alleged human rights violations of the Jammeh Presidency, citing reference to confessions of alleged perpetrators who were heard during public hearings of the TRRC, and to ensure justice for the 44 Ghanaians and 10 other Africans who were brutally murdered by the ‘Junglars’.

As part of the commemoration, the NHRC collaborated with the Office of The High Commissioner for Human Rights (OHCHR) and the UNDP to engage children and youth through several side activities:

1. Youth Panel Discussions.

In line with the this year’s theme, a youth panel discussion was organised in collaboration with the National Youth Council (NYC) wherein, young people engaged in vibrant discussions on their role in the achievement of Agenda 2030, sustainable development whilst seeking positive change towards a new Gambia that upholds human rights.



1. Media Talk Show on TV

The NHRC, in collaboration with the National Youth Council (NYC), engaged in a thirty-minute pre-recorded panel discussion on the theme of the Human Rights Day which was preceded by a Statement from the Chairperson of the Commission.

3. School Outreach

The school, like the family, is the most significant nurturing ground for children. Thus, creating a culture of human rights would require that school children are aware of their rights and responsibilities.

To enhance the knowledge of school-going children on human rights in line with the Sustainable Development Goals (SDGs) and how they can become champions of change, the NHRC worked with partners and delivered interactive sessions in two Secondary Schools, namely Muslim Senior Secondary School and St Therese Upper Basic School, and more than 250 students participated. Key highlights included poem recitals, ‘Spoken Word’ on children’s rights, and quiz competitions on human rights. Prizes were awarded to winners at Muslim Senior Secondary School and St. Therese Upper Basic School.

25. COMMEMORATION OF INTERNATIONAL MIGRANTS DAY (IMD): 18 DECEMBER

Many Gambia youth are vulnerable to human rights violations when they embark on the risky journey through the Mediterranean Sea or the Sahara Desert to Europe. Irregular migration through these routes have been on a steady increase in The Gambia and has therefore put development focus in this area.

The UN General Assembly Resolution 55/93 declared 18 December as International Migrants Day to highlight the need for States to respect, protect and fulfil human rights for all migrants, regardless of their status.

NHRC is happy to note that The Gambia ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) in 28 September 2018 and urges the government to domesticate the provisions of the Convention.

As part of the commemoration of the Day, the NHRC, jointly with OHCHR and International Organisation for Migration (IOM). organised a forum to raise awareness on critical issues specific to The Gambia context. It brought together CSO, human rights activists and youths in The Gambia to raise their awareness of the plights of returned migrants and to enhance their role towards the promotion and protection of human rights of the migrants.

It is important to note that while irregular migration remains a challenge in The Gambia, returnees face a lot of human rights challenges, including limited availability and access to employment and basic services such as housing, health care and psychosocial support; a lack of sense of belonging; and stigmatisation at both family and community levels. A human

rights-based approach to migration embraces a wide variety of socioeconomic factors indispensable to fostering the overall well-being of migrants.

NHRC also participated in IOM's Global Migration Film festival to contribute to the promotion and protection of human rights of the returned migrants, raise awareness among CSOs and youth and increase a space for dialogue between different groups.

26. CAPACITY BUILDING/TRAINING

Cultivating a culture of human rights is integral to the NHRC, both internally and externally. In the year in review, the Commission planned and implemented several trainings, capacity strengthening and orientation sessions to achieve this goal.

27. STAKEHOLDERS MEETING: NATIONAL INSTITUTIONS AND NON-STATE ACTORS: 23RD MAY 2019

The NHRC on the 23rd May 2019, engaged Rule of Law institutions, through a one-day meeting to create an avenue for dialogue and better understanding of the mandate, role and position of NHRC in promoting, protecting and monitoring human rights, and the need for partnership.

During this meeting, the NHRC fostered a common understanding of human rights frameworks and the country's obligations in localizing international frameworks and principles; and explored and clarified the role that stakeholders should play in supporting the work of the NHRC.

The meeting, attended by about 40 participants drawn from key state and non-state institutions, was organised in partnership with the PBSO, OHCHR, and UN Transitional Justice Project Management Unit.

28. SPECIALISED TRAINING ON HUMAN RIGHTS INVESTIGATION AND DOCUMENTATION, RABAT, MOROCCO: 22ND – 26TH JULY 2019

The NHRC Chairman and the Director of Legal and Investigation Department Mr Mansour Jobe benefitted from a 5-day specialized training course (22nd to 26th July 2019) on key human rights investigation and documentation skills. The course, which was held in Rabat, Morocco, was organised by the Institute for International Criminal Investigations (IICI), in collaboration with the Open Society Foundation. Key learning areas covered during the training included investigation planning, conducting witness interviews, witness management and security, and crime scene documentation.

29. TRAINING OF CIVIL SOCIETY ORGANISATION (CSOS) ON HUMAN RIGHTS: 20TH – 22ND AUGUST 2019

CSOs play a critical role in the promotion, protection, and advancement of human rights in The Gambia. They work with communities and groups, sensitize them on human rights, the role of the State in ensuring their rights, how these rights operate in practice, and what actions should be taken place when they are violated.



In this light, the NHRC on 20th to 22nd August 2019 organized a human rights training for CSO actors, with the aim of building their capacity to advance efforts to promote, report on and monitor human rights protection. Thirty (30) CSO organizations were reached.

The training also focused on key aspects of the functions and mandate of the NHRC, international, regional and national human rights frameworks, the rule of law and access to justice, networking, engagement and advocacy in the promotion and protection of human rights and the role that CSOs are expected to play in supporting the work of the NHRC.



30. ORIENTATION OF POLICE OFFICERS ON HUMAN RIGHTS: 2ND TO 4TH SEPTEMBER 2019



The role of law enforcement officials, particularly the Police, in protecting and ensuring respect for human rights of every individual, is fundamental. They are consequently expected to have a good understanding of international, regional, and domestic human rights frameworks and standards, to fulfil this obligation. It is in recognition of this, as well as in exercise of its mandate, that the NHRC focused on engagement with and training of Police Officers at the junior and middle level cadres.

The 3 day workshop (2nd to 4th September 2019) enhanced participants' knowledge and skills on the mandate and functions of the NHRC, the rights of vulnerable groups , including women, children and minorities, provisions of Chapter 4 of the 1997 Constitution on Fundamental Rights and Freedoms, specifically relating to the rights of accused persons during arrest, detention and trial and overall protection and promotion of fundamental rights and freedoms.

NHRC further encouraged the higher ranks of the Gambia Police Force to develop and implement policies needed for democratic policing and reinforce respect and trust for Law Enforcement. They were also urged to respect the ethos of legality and of compliance with international human rights standards.

With the support of the UNTJ Project Management Unit, PBSO and OHCHR, the training targeted 30 junior and middle-level officers from various units of the Gambia Police Force, including the Prosecution and Gender and Child Welfare Units.

31. PARTICIPATION IN THE THIRD AUC-NANHRI POLICY FORUM ON THE STATE OF AFRICAN NATIONAL HUMAN RIGHTS INSTITUTIONS, 5 -6 SEPTEMBER 2019

With the support of the Network of African National Human Rights Institutions (NANHRI), the NHRC attended the 3rd AUC-NANHRI Policy Forum on the State of National Human Rights Institutions in Africa, held from 5-6 September 2019, at the African Union Headquarters in Addis Ababa, Ethiopia.

The theme for 2019 forum was “The Contribution of NHRIs to durable solutions to forced displacements in Africa”. It is a joint initiative of the African Union Commission (AUC) and NANHRI, which seeks to provide a structured space for cultivating strategic collaborations, vital insights, and ambitious goals regarding the future of African national human rights institutions. The dialogue entailed policy discussions among the Permanent Representatives Committee of Member States to the African Union (PRC), the African NHRIs, CSOs, academia, media, and other regional and national stakeholders, and development partners.

The Policy Forum was attended by CSOs, relevant state actors, and international development partners.

32. PARTICIPATION IN THE 34TH SESSION OF THE UNIVERSAL PERIODIC REVIEW (UPR) OF THE WORKING GROUP AND SIDE EVENTS BY DELEGATES OF THE NATIONAL HUMAN RIGHTS COMMISSION AND A MEMBER OF CIVIL SOCIETY HELD IN GENEVA SWITZERLAND 1ST TO 13TH NOVEMBER 2019

The NHRC submitted a shadow report to the UPR in April 2019. The Working Group on the UPR established by the Human Rights Council held its 34th session from 4th to 15th November 2019. The Gambia was reviewed on 5th November 2019 following



the presentation of her report by the Attorney General and Minister of Justice Mr. Abubacarr M. Tambadou and the said report was adopted by the Working Group.

By attending the 34th Session of the UPR, the NHRC was provided the opportunity to further explore the functioning of the UPR and to impact on the work of the NHRC in holding the government to account as well as follow up on the implementation of the recommendations made at the UPR. The delegation led by the Chairperson of the NHRC also had side

meetings with senior officers heading different branches of the OHCHR, senior officers of GANHRI, Mr. Tony P.M Sisule Human Rights Adviser to the Commonwealth Small States Office and senior officers of Trial International.

33. REGIONAL TRAINING OF LAW ENFORCEMENT OFFICERS ON POLICE POWERS, HUMAN RIGHTS AND RELATED MATTERS: 2ND TO 5TH DECEMBER 2019

Sequel to the Orientation training for Police Officers wherein the participants recommended that the training be decentralise throughout the regions to strengthen the knowledge and skills of police officers at the regional level in order to promote a common understanding of human rights legal frameworks and the country's obligations in the area of human rights to all law enforcement officers.



Mansakonko, LRR

The training took place from the 2nd to the 5th of December 2019 and targeted 30 junior and middle-level law enforcement officers from the Police, Immigration Department and Prison Officers from Basse and its surroundings (Upper River Region), Janjanburreh and its surroundings (Central River Region), Mansakonko and its surroundings (Lower River Region) and Kerewan and its surroundings (North Bank Region).

The participants were trained on the use of police powers in accordance with human rights standards and the role of law enforcement in the administration of justice and the role they can play in supporting the work of the NHRC in its effort to promote a culture of human rights.



Kerewan, NBR



Basse, URR





MONITORING & INVESTIGATION

34. SUMMARY REPORT ON PRISONS VISIT AND DETENTION FACILITIES: 12TH – 13TH DECEMBER

As part of its functions, NHRC monitors institutions with statutory obligations to respect, protect and fulfil human rights. Under the year in review, and in partnership with the United Nations Development Programme (UNDP), NHRC on the 12th and 13th December 2019 undertook a monitoring to all the 3 prisons and Police detention facilities in Banjul, Kanifing, Serrekunda, Janjanburreh and Brikamaba. The visits aimed at assessing the condition of these detention facilities to support the State in upholding international standards and requirements.



35. VISIT TO THE PRISONS



Poor sanitary facilities

The Gambia Prison Services operates three main detention facilities namely, Mile II, Jeshwang and Janjanburreh Prisons, with a total of about 800 inmates including both convicts and remand prisoners at the time of this visit.

NHRC noted improvements in all these facilities since 2016. However, some challenges remain. These include overcrowding in some cells, poor lighting, and ventilation particularly at Jeshwang and Mile II prisons and limited toilet

facilities, which exacerbates the overall sanitary conditions of the inmates.

Prolonged detention awaiting trial or access to free and timely legal services particularly for children at the Juvenile Wing and those accused of capital offences is a serious concern and deserving urgent attention. Medical facilities and vocational training workshops are not adequately equipped and the working and domiciliary environment for Prison Officers need some improvement.

36. VISIT TO POLICE STATIONS



At a Police Station in CRR

The Commission also visited Banjul, Kairaba, Serrekunda, Janjanburreh and Brikamaba Police Stations. Generally, the detention facilities of all the police stations lack proper toilet facilities which poses health risks for police officers and the detainees. The cells had limited space to allow for adequate lighting and ventilation.

The infrastructure of these police stations particularly, Kairaba, Serrekunda, Janjanburreh and Brikamaba require renovation, office equipment,

such as tables, chairs, computers and mobility to enable police officers effectively discharge their functions (The NHRC has published a comprehensive report on this monitoring visit published separately).



Very poor sanitary facility at the Prisons

37. COMPLAINTS HANDLING AND INVESTIGATION

The National Human Rights Commission (NHRC) is mandated by sections 12 (b) and 13 (2) (a) of the NHRC Act 2017 to receive and hear complaints of human rights violations that fall within the jurisdiction of the Commission. The NHRC can also *suo moto* initiate investigation into alleged human rights violations. As a result, the NHRC, from September to December 2019, received five (5) complaints ranging from unlawful termination of contract of employment, discrimination, and childcare.

The NHRC also initiated two (2) investigations into allegation of torture while under police custody leading to death against Anti-Crime Unit of the Gambia Police Force as well as discriminatory practices in certain communities in the Upper River Region.

Three out of the five complaints received during the year under review were declared inadmissible for having failed to meet the admissibility criteria set out in Section 24 of the NHRC Act 2017 and Rule 10 of its Rules of Procedure on Complaints Handling and the complainants were advised to pursue their claims before the Industrial Tribunal and the Superior Courts as the most appropriate institutions to deal with their complaints.

One of the complaints was resolved while the fifth complaint is pending before the Commission. The two investigations initiated by the NHRC were also concluded, detail report prepared, and appropriate recommendations issued to the relevant institutions for implementation.



Investigating Officer Modou Sowe



Legal Officer Sirra Jah

HIGHLIGHT OF ACHIEVEMENTS

Since its establishment in February 2019, the Commission has successfully achieved the following:

1. The submission of the NHRC 's report to the UN and its consideration by the Human Rights Council set the stage for the Commission's engagement with UN mechanisms, a critical aspect of its oversight and international collaborative function.
2. Organized a Symposium in partnership with the Centre for Victims of Human Rights Violations to commemorate the 19th anniversary of the April 2000 student demonstration during which security forces caused the deaths of 14 students. By holding the symposium, the Commission highlighted the importance and need for comprehensive redress the student survivors of the April 2000 massacre.
3. Built the capacity of key stakeholders, by organizing human rights workshops and trainings for 30 Civil Society Organizations and 150 Law Enforcement Officers comprising of Police, Prisons, and Immigration officers.
4. Developed the following internal documents for the Commission's effective operations:
 - A Handbook for the Commissioners,
 - Standard Operating Procedures for Commissioners and Staff,
 - Conditions of Service,
 - A Code of Conduct,
 - Terms of References for various Thematic Committees; and
 - Key policy documents guiding the function of the Commission.
5. Established effective network with other National Human Rights Institutions (NHRIs), regional and international institutions,
6. Acquired full membership at the Network of African Human Rights Institutions (NANHRI) at their General Assembly meeting held in November 2019 in Cairo, Egypt.
7. Set up a fully functional National Secretariat with all the key technical staff in place.
8. Developed a comprehensive Complaints Filing procedure including both electronic and manual options.
9. Developed the terms of reference of National NGOs Human Rights Forums.
10. Enhanced all 5 Commissioner's expertise and knowledge on management, leadership, Human Rights standards and monitoring, and workings of NHRIs.
11. Trained 7 staff and 5 Commissioners, as well as representatives from the TRRC, CRC, Police and Prisons on leadership, management of an effective NHRI, strategic planning and programme design and implementation.

12. Made submission to the CRC for consideration in the draft Constitution where nearly all the recommendations were accepted and included in the 2020 Draft Constitution.
13. Work efficiently enhanced through learning of best practices from CHRAJ, an ‘A Status’ NHRI.
14. Sensitized 350 participants, including Mayors, Governors, regional senior civil servants, religious and traditional leaders, women and youth leaders and community members on human rights and the mandate and functions of the NHRC.
15. Commemorated the 2019 Day of the African Child and gave children the platform to speak on The Gambia they envision.
16. Through the commemoration of Human Rights Day, 250 children from 2 schools had their knowledge and awareness enhanced on human rights, the SDGs, and the mandate of the Commission.
17. 40 participants drawn from key State and Non-State institutions were sensitized on human rights and the role and functions of the NHRC.
18. Representatives from 30 Civil Society Organisations had their capacities on human rights, human rights reporting and monitoring and the mandates and functions of the NHRIs enhanced.
19. 30 Junior and middle level officers from the various Units of the Gambia Police Force were trained on the mandate of the NHRC, rights of vulnerable groups, Chapter IV of the 1997 Constitution dealing with fundamental rights and freedoms, and human rights principles and standards
20. 120 Law enforcement officers drawn from Lower River Region, North Bank Region, Central River Region and Upper River Region were trained on police powers, human rights & related matters
21. The first edition of the NHRC newsletter produced and disseminated to partners and stakeholders including the Ministries, Agencies and Department as well as international institutions and organizations in the country.



Two of the Five Commissioners: Vice Chair Johm and Commissioner Dr Campbell

CHALLENGES

Gambians have high expectations for the newly established NHRC to lay the foundation for sustainable access to justice and the overall enjoyment of human rights at all times.

Currently, the core funding of the NHRC is allocated by the Government and support from the United Nations. This leaves the Commission with funding gaps to facilitate the implementation of programmes, the proper setting up of the Investigations Unit and the establishment of regional offices, among others. To effectively serve the population and implement its mandate countrywide, the NHRC is establishing partnerships and mobilizing resources locally and internationally. The NHRC is currently renting its office premises and will need the Government as per the Paris Principles governing the establishment of National Human Rights Institution to provide it with a permanent office premises. In order to effectively and efficiently implement its promotional and protective mandate, the NHRC needs to develop a 5 year strategic plan which will act as a road map to guide its systematic functioning which will include a comprehensive resource mobilization strategy to fulfil its mandate. Already plans are underway to hire a consultant to assist in this task.



Commissioner Chair Joof, Commissioners Drammeh and Leigh and Executive Secretary Dr Barry



The Civil Society Dialogue Platform



LESSONS LEARNED

Within the year in review, the NHRC has learned valuable lessons that will enhance its effectiveness and efficiency in serving the public. Key areas include:

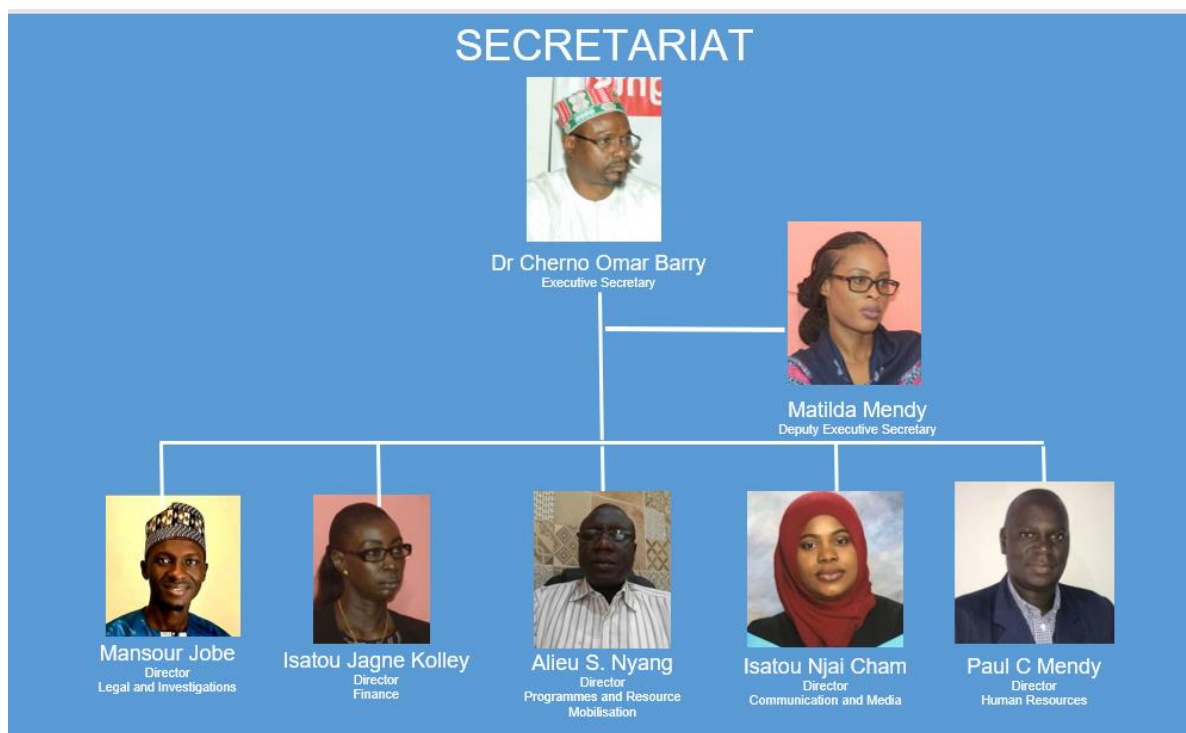
1. **Prioritization:** As a newly established institution which is growing its technical capacity, and constrained by limited resources, how we prioritise our work and programme interventions will determine the impact we make in the short to medium term.
2. **Positioning the NHRC:** Our ability to strengthen our technical capacity and position ourselves financially to be able to serve and expand our reach nationwide will depend on the nature and sustainable character of the partnerships we establish with national institutions, NGOs and Development Partners.
3. **Building Partnerships and Collaboration:** Achieving impact in the fulfilment of our mandate, while minimizing conflict in the messages we give on human rights, would require that we strengthen partnership and collaboration with statutory bodies and rule of law institutions such as the Office of the Ombudsman, National Council for Civil Education, National Agency for Legal Aid and the Gambia Police.
4. **Promotion of the Indivisibility of human rights:** People generally think that human rights are only about civil and political rights. Creating a better appreciation and significance of human rights in national development and progress would require that our advocacy and awareness efforts put greater emphasis on economic, social and group rights and the indivisibility and interrelatedness of human rights.
5. **Expanding our geographical accessibility:** Our physical presence is currently only in the Greater Banjul Area which limits access to our services for those in rural Gambia. Ensuring accessibility and equity to the services we deliver would require that we establish presence in all the regions of the country, or, as a temporary measure, enter into a Memorandum of Understanding with key statutory institutions with mandate to promote and protect human rights and have physical presence thereafter. Growing to scale may require seeking additional funds.

THE SECRETARIAT

The Secretariat is composed of the following:

Positions	Nos
Executive Secretary	1
Deputy Executive Secretary	1
Director, Programmes & Res. Mob.	1
Director, Finance	1
Director, Human Resources	1
Director, Legal and Investigations	1
Director, Communications & Media	1
Legal Officers	3
Investigating Officers	4
Communications & Media Officer	1
Procurement Officer	1
Executive Assistant	1
Internal Auditor	1
Finance Officer	1
Logistics and Office Assistant	1
Drivers	6

Of the 26 staff members the Commission recruited, there are 8 female, 17 youth and more than half acquiring undergraduate degrees. The staff bring to the NHRC expertise and experiences from different fields of endeavour and are motivated to contribute meaningfully for the institution to achieve its goals. Our organizational culture is such that every member of staff is seen as a valuable team member and as such, is accorded the opportunity to contribute his or her part. Therefore, with such highly motivated staff, we are confident that the National Human Rights Commission will live up to expectation and achieve its mandate.



OVERVIEW OF FINANCIAL STATEMENT 2019

The National Human Rights Commission started becoming financially operational following the appointment of the five Commissioners in February 2019. The Ministry of Justice submitted a budget for the Commission in their institution's 2019 budget negotiation in 2018. The total budget for government funding the year 2019 was GMD66.88m. This amount comprised a total salary estimate of GMD30.0m and GMD36.88m estimated for recurrent expenditure.

From August to December 2019, after the Commission's bank accounts were opened and operational, the NHRC received the total sum of GMD20.6m from government. Before the recruitment of the secretariat staff for the setting up of the office however, the Commission, being a subvented entity under the Ministry of Justice, had its expenses being paid directly by the Ministry between February and August 2019. It was from August 2019 that the first disbursements started coming under the NHRC's name through the Ministry of Justice to its account at the Central Bank.

Allocations from government were received as follows:

	ACTUAL FUNDS RECEIVED	REMARKS
DATE	(GMD)	
Aug-19	4,000,000	
Oct-19	3,000,000	
Nov-19	2,000,000	
Dec-19	4,000,000	
Dec-19	7,577,000	Special allocation for Vehicles for Commissioners
	20,577,000	

Of the 2019 expenditure from government funds, GMD 16.6m, centred mostly on the implementation of some key activities, recruitment of staff, furnishing and equipping the Secretariat office to make it adequately operational, vehicles for the Commissioners and the Executive Secretary and for office operations (utility) and funds committed towards the design and construction of the Commission's website.

Activities fully funded or co-funded were as follows – training of CSOs on Human Rights; training of junior police officers on Human Rights; Leadership workshop; regional stakeholder meetings; April 10/11 symposium with the TRRC; Meeting with the National Assembly Select Committee on Human Rights; and International Human Rights Day activities.

From Donors

The NHRC was also supported by the UN (UNDP and OHCHR mainly) for the year 2019 in the setting up of the Secretariat and in the funding of some activities, through the UN Transitional Justice Project under the Peace Building Fund (PBF). The total amount of support for 2019 was approximately GMD 6.9m and the key areas of support were as shown below:

Activities/Outreach	In Dalasi
Initial Stakeholder Meeting	58,100
NHRC Training of CSOs on Human Rights	132,250
NHRC Training of Police on Human Rights	151,200
NHRC Regional Introductory Meetings	166,550
	508,100
One-year office rent	1,754,204
Communication & Audio-visual Equipment	964,440
Equipment and Furniture	716,661
Travel	2,983,304
	6,418,609
TOTAL SUPPORT	6,926,709

Without the contribution of our partners, it is evident that the great strides achieved would have been impossible. We hope that we would build more partnership with other organisations - national and international – in The Gambia and beyond, to strengthen the Commission and accompany it in its quest to ensure human rights are enjoyed by all in The Gambia.



Future leaders taking up Human Rights seriously

OUR PARTNERS

Our main partners on this journey have been the UN with the UNDP and the OHCHR being the primary ones. With the funds allocated for Transitional Justice through the Ministry of Justice, the Commission benefitted very much from it and as indicated above, it was able to begin work without delay.

The Commission also worked with the African Union expert Ms Judy Oder, who has shared her expertise and has advised on many matters related to the works of the Commission during this period. With her around, the Commission has had an enriched experience and a great source of support.

The Government of The Gambia is perhaps the greatest partner in such a challenging endeavour. Through the Ministry of Justice, much of 2019 achievements have been a success. Until the establishment of the Secretariat, the Ministry of Justice was there to accompany, advise and support the Commission as it traversed its toddler stage.

Without the cooperation of national agencies and departments, security services, and civil society organisations, much of the activities would not have happened. The CSOs were very responsive and cooperative in the Commission's efforts to coordinate their common efforts to see a Gambia where every body's right is respected.

How donors can help

The NHRC's priorities for the coming year are to open at least one regional office outside the Greater Banjul Area and West Coast Region, conduct and publish comprehensive research on human rights themes and develop a comprehensive 5-year strategic plan. Donors can support specific thematic issues or activities detailed in the NHRC's annual work plan, by funding project proposals submitted and funding implementation of the NHRC 5-year strategic plan when it is developed. They could also bolster the work of the Commission through provision of core funding.



ANNEX 1

Commissioners and staff of the National Human Rights Commission

1. Emmanuel Daniel Joof	Chairperson
2. Jainaba Johm	Vice Chairperson
3. Njundu Drammeh	Commissioner
4. Baba M. Leigh	Commissioner
5. Cherno Omar Barry	Executive Secretary
6. Matilda Mendy	Deputy Executive Secretary
7. Isatou Jagne Kolley	Director Finance
8. Mansour Jobe	Director Legal and Investigations
9. Alieu S. Nyang	Director Programmes and Resource Mobilisations
10. Isatou Njai Cham	Director Communications and Media
11. Paul C. Mendy	Director Human Resources
12. Fatou Gaye	Legal Officer
13. Sainey Bah	Legal Officer
14. Sirrah Jah	Legal Officer
15. Modou Sowe	Investigating Officer
16. Sidy Saidykhan	Investigating Officer
17. Baboucarr Njai	Investigating Officer
18. Aminata L.B. Ceesay	Investigating Officer
19. Andy Secka	Procurement Officer
20. Lamin E. Fatty	Communications and Media Officer
21. Jacqueline Jarrga Njie	Executive Assistant
22. Sheikh Tijan Kuta	Finance Officer
23. Metta Mboob	Logistics and Office Assistant
24. Bubacarr Saine	Chief Driver
25. Bakary Manneh	Senior Driver
26. Lamin Ndong	Senior Driver
27. Ebrima Darboe	Senior Driver
28. Mamadou Alieu Bah	Senior Driver
29. Salifu Bah	Senior Driver
30. Alieu Camara	Senior Driver

ANNEX 2

Activities in Chronological Order:

Date	Month	Activity	Theme
4 th – 7 th	March	Study tour to the Office of the High Commissioner for Human Rights (OHCHR) & Global Alliance of National Human Rights Institutions (GANHRI),	Institutional building
12 th – 14 th	March	Orientation Retreat for the Commissioners, Sindola	Institutional building
19 th – 21 st	March	Developing Internal Frameworks, Policies and Guidelines	Institutional building
24 th April – 14 th May	April	The 64th Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR)	Institutional building
23 rd	May	Stakeholders Meeting: National Institutions and Non-State Actors	Capacity building/training
29 th - 31 st	May	Sub-Regional Consultation Network of NHRIS, Ghana	Institutional building
16 th	June	Commemoration of the day of the African Child	Awareness creation:
2 nd – 6 th	July	Study Visit to the Commission on Human Rights and Administrative Justice (CHRAJ), Ghana	Institutional building
22 nd –26 th	July	Specialised Training on Human Rights Investigation and Documentation, Rabat, Morocco	Capacity building/training
20 th – 22 nd	August	Training of Civil Society Organisation (CSOs) on Human Rights	Capacity building/training

2 nd -4 th	September	Orientation of Police Officers on Human Rights	Capacity building/training
5 th -6 th	September	Participation in the Third AUC-NANHRI Policy Forum on the State of African National Human Rights Institutions	Capacity building/training
10 th – 12 th	September	Leadership Orientation for Commissioners and Staff of the NHRC	Institutional building
1 st -7 th	October	Nationwide sensitisation tour	Awareness creation:
2 nd -5 th	December	Regional Training of Law Enforcement Officers on Police Powers, Human Rights and Related Matters	Capacity building/training
10 th	December	Commemoration of International Human Rights Day	Awareness creation:
12 th – 13 th	December	Summary Report on Prisons Visit and Detention Facilities	Monitoring & Investigation
18 th	December	Commemoration of International Migrants Day	Awareness creation:

ANNEX 3

The National Human Rights Commission's submissions to the Constitutional Review Commission

In a document titled 'Possible areas for constitutional reform', the Constitutional Review Commission of the Gambia invited stakeholders to send submissions on specific issues for potential inclusion into the new constitution. The National Human Rights Commission (NHRC) submits these proposals in response to that call.

The NHRC's submissions cover citizenship, fundamental rights, and freedoms, voting rights for prisoners and Gambians in the diaspora, dual nationality and public office, the president's powers, presidential term limits and the NHRC.

1. Citizenship

(ii) Should a foreign national renounce their nationality to acquire Gambian citizenship?

The NHRC recommends that foreigners who wish to acquire Gambian citizenship should not renounce their nationality as currently Gambians abroad can acquire other nationality and retain their Gambian nationality. Requiring foreigners to renounce their nationality before acquiring Gambian nationality would amount to unequal treatment.

(iii) Is 7-year ordinary residence requirement before foreign nationals married to Gambians acquire nationality, reasonable?

The NHRC proposes that 5 years ordinary residence is a reasonable period.

(v) Is the law that requires 15 years ordinary residence in The Gambia before a foreign national can apply for citizenship by naturalisation fine?

In the NHRC's view, a 10-year requirement would be appropriate.

(vi) Should a child with a Gambian grandparent born in the Gambia, be entitled to the right to citizenship?

The NHRC's view is that citizenship should be acquired through a child's parents.

(viii) Citizenship for migrants and their children

The NHRC submits that parents should have the ability to naturalise and convey nationality to their children. If parents are not naturalised, provision should be made for their children to naturalise in adulthood. In this light, public education should be undertaken to raise awareness regarding acquisition of citizenship by parents and their children through naturalization.

(xii) Should persons found within the country whose parents are unknown presumed to be Gambian citizens?

The NHRC suggests that:

A child found in Gambia who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth.

(xvii) Citizenship for non-Gambian adopted children

The NHRC proposes automatic citizenship for children formally adopted by Gambians.

2. Fundamental Rights and Freedoms

(i) Do the fundamental rights and freedoms in the 1997 Constitution reflect the rights and freedoms enshrined in international instruments ratified by the Gambia?

These rights are not adequately embodied in the constitution.

(ii) Which international treaty provisions are not adequately covered in the current constitution?

The CRC should consider including principles from the following international and regional human rights treaties into the Constitution.

International instruments

1. The Convention on the Rights of Persons with Disabilities

2. The International Covenant on Economic, Social and Cultural Rights

3. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

4. The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

Regional instruments

5. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

6. African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa

7. African Charter on Elections, Democracy and Governance

8. African Youth Charter.

(iii) The status of the death penalty recognised in the current constitution and the state's conflicting obligations under the second Optional Protocol to the ICCPR?

The NHRC submits that the death penalty should be abolished as the State has ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

(iv) Should the Constitution include a framework empowering the national assembly to enact legislation permitting parole for prisoners?

The national assembly has powers to enact legislation on criminal justice issues so it should not be included in the Constitution. Prisoner rehabilitation and restorative justice approaches in the criminal justice system should be key components to the on-going Justice, Law and Order (JLO) sector reforms

(v) Should the Constitution protect children under 18 from economic exploitation?

Yes, the NHRC proposes that the age should be raised from 16-18 years in line with the Gambia's obligations under the Children's Act 2005, the African Charter on the Rights and Welfare of the Child 1999 and the Convention on the Rights of the Child 1990 to protect the best interests of the child.

(vi) Should the new constitution include a provision allowing the Courts to refer to international treaties when interpreting bill of rights provisions?

The NHRC recommends the inclusion of international and regional treaties ratified and acceded to by the Gambia as sources of law in the new Constitution.

(vii – xi) Media freedoms and adequacy of current laws

The NHRC is aware that the Government in collaboration with Article 19 is working on reviewing the media laws

(xi) Should the right to decent health care and housing be included in the Constitution?

The NHRC is of the view that economic, social, and cultural rights such as health, education, water and sanitation, environment and food should be included in the constitution, and should be justiciable. The inclusion of Economic Social and Cultural (ESC) rights would be a positive step towards greater protection of ESC rights.

(xii) Should basic secondary education be free?

The NHRC submits that secondary education should be free, to ensure wider access to education by children whose families may not be able to support funding education after primary school.

(xiii) The adequacy of current constitutional provisions to persons living with disabilities and youth.

Persons with disabilities

The NHRC submits that the CRC consider including a provision requiring the State to take specific measures to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

In respecting, protecting, and fulfilling the rights of persons with disability the State should be guided by the following principles from the UN Convention on the Rights of Persons with Disabilities:

a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (b) Non-discrimination; (c) Full and effective participation and inclusion in society; (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (e) Equality of opportunity; (f) Accessibility; (g) Equality between men and women; (h) Respect for the evolving capacities

of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Youth

Taking into consideration the Gambia has ratified the African youth Charter¹, a provision drawing the principles in that treaty can be included in the constitution. The CRC could consider including a provision, which reads:

“The State shall recognise youth groups and develop comprehensive youth policies. It shall implement youth programmes and take measures to allow youth participation in national parliaments. The State shall create peer-to-peer programmes for marginalised youth”.

(xv) Are women sufficiently protected in the Constitution?

The NHRC submits that women are not sufficiently protected. Section 33(5) (c) Subsection (2) provides that section 33 prohibiting discrimination shall not apply to any law on adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law.

The NHRC proposes that the state harmonise the Constitution, personal laws principles of equality, repealing all discriminatory provisions, to ensure that women enjoy equal rights as men in marriage, divorce, inheritance marital property, adoption, burial and devolution of property on death, in line with General Recommendation No. 29 (2013)² on the economic consequences of marriage, family relations and their dissolution. Paragraph 11 of Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW) General Recommendation 29 specifically provides that States parties should guarantee equality between women and men in their constitutions and should eliminate any constitutional exemptions that would serve to protect or preserve discriminatory laws and practices with regard to family relations.

The NHRC submits that the new Constitution include a provision on substantive equality to address the impact of discrimination on women and other marginalised groups. A proposed provision could be:

“The State may take legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination to promote the achievement on equality.”

Individual choice in relation to the application of identity based personal law

The Gambia has multiple legal systems in which different personal status laws apply to individuals based on identity factors such as ethnicity or religion. Individuals do not have a choice as to the application of personal status laws.

Drawing from CEDAW General Comment 29, paragraph 12, the NHRC submits that identity-based personal status laws and customs perpetuate discrimination against women and that the preservation of multiple legal systems is discriminatory against women. Lack of

individual choice relating to the application or observance of laws and customs exacerbates this discrimination.

The NHRC, in line CEDAW General Comment 29 paragraph recommends that:

1. The state adopt written family codes or personal status laws that provide for equality between spouses or partners irrespective of their religious or ethnic identity or community, in accordance with the Convention and the Committee's general recommendations.

2. In the absence of a unified family law, the system of personal status laws should provide for individual choice as to the application of religious law, ethnic custom, or civil law at any stage of the relationship.

3. Personal laws should embody the fundamental principle of equality between women and men and should be fully harmonised with the provisions of the Convention to eliminate all discrimination against women in all matters relating to marriage and family relations.

3. Elections

xv) Should prisoners be allowed to vote?

The NHRC submits that all categories of prisoners should exercise their right to vote.

xvi. Should the State arrange for diaspora Gambians to vote?

The NHRC submits that the state should arrange for diaspora Gambians to exercise their right to vote.

Winning presidential vote count

The NHRC submits that no presidential candidate will be declared a winner in the first round of voting if they did not garner 50 + 1 % of the popular vote cast. A second round of voting will determine the winner of a presidential election between the two presidential candidates with the most votes during the first round.

7. The Executive and service commissions

7(b) (iv) Presidential candidate's age

The NHRC submits that the Presidential candidates should not be less than 30 years and not more than 75 years of age at the time of presenting themselves for election.

7 (b) (viii) Disqualifications from Presidency

The NHRC submits that Gambians holding dual nationality should be disqualified from holding presidency, vice-presidency, and head of security positions.

7(c) (i) Presidential term limits

The NHRC submits that the Presidential terms should be limited to a maximum of two five-year terms

7 (p) (ii) Should the Office of Attorney General be divorced from the position of Minister of Justice to which political appointment may be made?

The NHRC submits that the two offices should be separate – the Attorney General should be a career civil servant, while the Minister of Justice can be a political appointee.

(iii) If the answer to paragraph (ii) is in the affirmative (Yes), should the Office of Attorney General be a permanent civil service post and ranked top of the ladder (above or same level as Secretary General)?

The Office of the Attorney General should be at the same Level as the Secretary General.

13. National Human Rights Commission

13 (x) Should the functions of the Ombudsman, Human Rights Commission and Anti-Corruption Commission be prescribed fully in the Constitution

Yes. The NHRC proposes that the functions, mandate and pensions of the National Human Rights Commission and the Anti-Corruption be prescribed in the Constitution.

13(xvi) Should the Human Rights Commission be accorded quasi-judicial powers? If so, what should those powers be?

The NHRC recommends that the new Constitution state that the National Human Rights Commission of the Gambia is a quasi-judicial body as already stipulated in the National Human Rights Commission Act 2017.

The appointment of National Human Rights Commissioners should be confirmed by the National Assembly before being sworn into office by the President.

ANNEX 4

NHRC Supplementary Contribution to CRC Document

On 20th May 2019, the NHRC on the invitation of the CRC had a consultative meeting with Commissioners and staff of the CRC at their Headquarters Futurelec Building, Bertil Harding Highway, Kotu.

During the said meeting, the NHRC had a thorough discussion with the CRC Commissioners focussed mainly on the earlier proposal that the NHRC submitted to the CRC in response to the CRCs invitation to stakeholders to send submissions on specific issues for potential inclusion into the new constitution.

It will be recalled that the NHRC's earlier submission covered citizenship, fundamental rights and freedoms, voting rights for prisoners and Gambians in the diaspora, issues relating to dual nationality and holding of certain public office, the presidential powers, presidential term limits and inclusion a provision in the new Constitution of the NHRC containing its roles, functions, powers, tenure etc.

During the said meeting on the 20th May 2019 aforesaid, the CRC requested the NHRC to give more inputs on:

1. Broadening enforcement of protective rights including Class Actions
2. Justiciable/ Remedies for violations of economic, social, and cultural rights
3. Rights of Disable Persons
4. Whistle blowing in the context of good governance in the constitution.
5. Practice from other countries on personal laws and FGM vis are vis the right against discrimination

1. Current Provision in the 1997 Constitution

Section 37 (enforcement of Protective Provision) Section 37 (1) If any person alleges that any of the provisions of section 18 to 33 or section 36 (5) of this Chapter has been, is being or is likely to be contravened in relation to himself or herself by any person he or she may apply to the High Court for redress.

Proposed Amendment

Section 22 Enforcement of Rights Kenyan Constitution Section 22 (1) Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated, or infringed, or is threatened. (2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by-- (a) a person acting on behalf of another person who cannot act in their own name; (b) a person acting as a member of, or in the interest of, a group or class of persons; (c) a person acting in the public interest; or (d) an association acting in the interest of one or more of its members.

Comment

The new constitution should explicitly recognise the right for group / class action (mass tort litigation/ multi district litigation). The current provision under Sec 37 is restrictive as far as locus standi is concern. Recognising group and class actions like the Kenyan provision will allow concern members of the public to litigate in cases surrounding environmental issues e.g. pollution, land rights, mining rights etc. Recently occurrences in Faraba Banta over mining rights, the Fishmeal Factory in Gunjur and Sanyang, land disputes in Kunkujang, Berending etc - In fact, the whole of Kombo South makes a good case for this proposal.

2. Current Provision in the 1997 Constitution

The current 1997 Constitution does not clearly list economic, social, and cultural rights as justiciable apart from the right to basic education. The right to health care, safe drinking water, clean environment, decent housing etc. are not rights recognised and or listed as justiciable and therefore do not fall under Sec 37 Enforcement of Protective Provisions

Proposed Amendment

Constitution of Ghana 1992 @ Section 24 guarantees Economic Rights. The New Gambian Constitution can borrow from these and similar provisions to guarantee these fundamental rights. -See also Sec 24 of the Constitution of the Republic of South Africa 1996 Sec 27 of the South African Constitution also guarantees the right to: health care, food, water, and social security.

Comment

Justiciability of Economic, Social and Cultural Rights in the new constitution should be clearly stated. The right to education, health care, clean water, food, social security, and other public services that everyone is entitled to is primarily the responsibility of the state to fund through public authorities or otherwise provide support. The wordings relating to economic, social, and cultural rights should not be framed in such a way as to give the impression that they are not enforceable but something that the state should merely aspire to. The Vienna Convention on the law of treaties which entered into force in 1980 clearly spells out the equality of ESCR to that of the CPR.

3. Current Provision in the 1997 Constitution

Sec 31 of the 1997 Constitution Provides for the Rights of the Disable. This Section is basic and lacks detail provisions for the guaranteeing the rights of persons with disabilities.

Proposed Amendment

The Ghana Constitution has more detail provision guaranteeing the rights of people with disabilities See Sec 29 RIGHTS OF DISABLED PERSONS.

Comment

The new constitution can borrow from the provisions of the Ghanaian Constitution of the Rights of Disabled Persons. *The Gambia is currently in the process of passing a disability act to better guarantee the rights of disabled persons.

4. Current Provision in the 1997 Constitution

Question posed by the Chairman of the CRC to the NHRC was whether the new Constitution should protect Whistle-blowers in government from retaliatory actions when they report on probable presence of an activity constituting a violation of law, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to public health and safety etc?

Proposed Amendment

Ghana's 2006 Whistle-blowers Act enables citizens to disclose information about the corrupt or unlawful activities of other people. It offers them protection from victimization linked to such disclosures. The law was passed after Ghana was rocked by a series of financial scandals.

Comment

Protection of Whistle-blowers should perhaps be reflected in an Act of the National Assembly and not the new Constitution.

5. Current Provision in the 1997 Constitution

Non-discrimination under Section 33 vis à vis Personal law. Should discrimination be allowed with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law -which is currently the position in our Constitution? See Section 33.

Proposed Amendment

The new Constitution should borrow a leaf from the 2011 Constitution of Morocco which guarantees equal protection and enjoyment of its laws for both men and women. The country's progressive Family Law (Moudawana) secured important rights for Moroccan women, including the right to self-guardianship, the right to divorce, and the right to child custody. The legal marriage age changed from 15 to 18 years of age, and women are no longer required to have a male guardian approve their marriage.

Comment

Section 33 (5) of the Gambian 1997 Constitution does allow for discrimination. Islamic law and some customary laws and practices does treat women and children unequally and this tantamount to discrimination and contradicts our regional and international treaties, conventions, and declarations we have subscribed to.



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