

INTERVENTION BY NHRC, THE GAMBIA, CHAIRPERSON, MR. EMMANUEL DANIEL JOOF

Distinguish Members of the CEDAW Committee of Experts, Your Excellencies, Honourable Delegates, Distinguish Ladies and Gentlemen

I present to the Committee, compliments of the National Human Rights Commission of The Gambia, and extend our sincere appreciation for this timely Constructive Dialogue.

Chairperson, the NHRC is an independent body established by the National Human Rights Commission Act 2017 to promote and protect human rights in The Gambia. This is our first report to CEDAW and highlights our observations in the implementation of the Convention since the last Dialogue.

THEMATIC AREAS OF CONCERN AND RECOMMENDATIONS

1. Trafficking In Persons

The NHRC recognises progress by the State to combat Trafficking in Persons with the organisation of capacity-building programmes for law enforcers, prosecutors and judges on investigation and prosecution of trafficking cases.

However, we remain concerned about the inadequate implementation mechanisms for the prevention, protection, and prosecution of human trafficking. These shortcomings have been highlighted in the 2021 and 2022 US Department of State Trafficking in Persons Reports and the 2019 report of the Special Rapporteur on the Sale and Sexual Exploitation of Children on her visit to The Gambia.

Recommendations:

The NHRC urges the Committee to recommend to the State to:

- Allocate sufficient budgetary and technical support to NAATIP.
- Align national efforts with regional and international mechanisms in combatting TIP as a Transnational Organised Crime.
- Raise awareness on TIP in collaboration with relevant stakeholders, NGOs and CSOs.
- Review the Trafficking in Persons Act 2007 to address new trends in human trafficking, including provisions against human smuggling.

2. Women's rights and gender equality in relation to the pandemic

The NHRC applauds the Government for the measures taken to alleviate the negative impact of COVID-19 on the population. These included remote learning mechanisms put in place by the Ministry of Basic and Secondary Education, the establishment of a SGBV Technical Working Group to address anticipated SGBV cases and the setting up of a SGBV Hotline 1313¹ with an NGO, Paradise Foundation.

¹ Huge succour for gender based violence victims as FBB launches helpline, The Fatu Network: <https://fatunetwork.net/huge-succour-for-gender-based-violence-victims-as-fbb-launches-helpline/>

However, research remains limited to determine the impact of these interventions and it is reported that the Hotline is not always functional. The remote learning mechanisms have been criticised for inadequately catering to the needs of all children, including children with disabilities and those from poor families, as access required the availability of electricity supply, internet connectivity, radio, or television. Anecdotal evidence showed a higher prevalence of child labour and violence against girls, including child marriage and FGM. Furthermore, COVID - 19 continues to limit the access of women and girls to sexual and reproductive health services, mainly due to the primary focus of the Ministry of Health on COVID-19 programmes.²

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Provide uninterrupted health care services to women and girls during times of public emergencies.
- Develop and popularise a comprehensive gender sensitive COVID - 19 Recovery strategy.
- Adequately support the SGBV hotline and popularise its use nationwide.

3. Participation in Political and Public life

The NHRC recognises the increased number of women in the Judiciary, law enforcement and the education sectors and commends the Government for the appointment, for the first time, of two women as Cadi³ in February 2022.

However, women continue to be underrepresented in political and senior decision-making positions. A campaign to amend the 1997 Constitution and introduce a 30% quota system in time for the April 2022 Legislative election failed this year. Thus, only 5 of the 58 representatives in the National Assembly are women, two of whom are nominated members. At local government level, female representation remains low. Currently, there are only three female Cabinet Ministers out of twenty-one. The position of Vice President which has been long held by women is now occupied by a man thereby diminishing the presence of women at the highest echelons of the decision-making process.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Put in place special measures to increase the number of women in senior public offices.
- Appoint more women to the Cadi Courts and the Cadi Appeals Panel.

4. National Human Rights Commission

The NHRC enjoys financial, administrative, and institutional independence in line with the Paris Principles. It has created a thematic Committee on Vulnerable Groups which includes an expert on the rights of women.

As a public entity, the NHRC receives its main financial resources from the Government, with donor support on few secured projects. It is, however, challenged with inadequate financial

² P.54, State of Human Rights Report in The Gambia 2020, National Human Rights Commission: <https://www.gm-nhrc.org/annual-reports> accessed 8 September 2022.

³ "Gambia appoints first women cadis" The Standard, <https://standard.gm/gambia-appoints-first-women-cadis/>: accessed 9 September 2022

resources to effectively deliver its mandate as government allocations continue to dwindle annually.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Increase its annual budgetary and monthly allocation to the NHRC to strengthen the effective operations of the NHRC.
- Continue to safeguard the independence of the NHRC.

5. Sexual and Gender-Based Violence (SGBV)

The NHRC appreciates the Government's efforts in combating SGBV, including the enactment of legislation and community engagements by CSOs to raise awareness. Gender Units have been established in key statutory protection agencies such as the Ministry of Justice and within security agencies. The Government has partnered with the **Network Against Gender-Based Violence (NGBV)** a CSO to establish One Stop Centres in nine health facilities⁴ that provide medical, legal and counselling support to victims of sexual and domestic abuse in one place⁵.

The TRRC thematic hearing on SGBV, DHS 2019-2020 and the NHRC 2021 Study on Sexual Harassment in the Workplace show a high prevalence of SGBV in the country. Most institutions do not have a Workplace Sexual Harassment Policy. Reporting is still low due to factors such as stigmatisation, fear of reprisal and revictimisation, and online shaming. The efficiency and impact of the Gender and Child Welfare Units and the One-Stop Centers are severely hampered by limited financial, human and material resources. Marital rape is not prohibited.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Amend the Sexual Offences Act to include the offence of marital rape.
- Effectively implement the Domestic Violence Act and the Sexual Offence Act (2013).
- Engage communities to raise awareness of SGBV.
- Implement and popularise its White Paper implementation strategy on the TRRC Report, particularly the theme on SGBV.
- Put in place adequately resourced care and protection services, programmes, and strategies for GBV victims.
- Ratify and domesticate ILO Convention 190 concerning the Elimination of Violence and Harassment in the World of Work.

6. Constitutional and Legislative Framework

The NHRC recognises the existence of legal provisions which afford women full and equal treatment of the person with men, including equal opportunities in political, economic, and social activities. However, section 33 (5) (C) of the Constitution still subjects the prohibition of discrimination to personal law, especially in matters of marriage, divorce, and inheritance some of which are discriminatory towards women..

⁴ Edward Francis Small Teaching Hospital, Kanifing General Hospital, Bundung Maternal and Child Health Hospital, Brikama District Hospital, Bwiam General Hospital, Bansang General Hospital, Soma, Basse, Farafenni and Essau district hospitals.

⁵Various categories of women experience abuses in the Gambia particularly women and orphans living with HIV/AIDS, experiencing stigma related gender-based violence and human rights violations. The under reporting of cases, creates impunity and limited care and support to affected women.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Repeal remaining discriminatory laws.
- Ensure the enforcement and implementation of all legislation for the protection of women against all forms of discrimination.

7. Access to Justice by Women

The Commission recognises the efforts of National Agency for Legal Aid (NALA) in providing free legal services to vulnerable persons, including women, and legal representation for capital offences and minors and legal aid services to communities through its Mobile Legal Aid Clinics.

Despite these efforts, women continue to face barriers in accessing justice due to poverty and unawareness of available legal aid services. These factors greatly impede women's access to justice as guaranteed by the Constitution and the obligation of the State.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Provide adequate financial allocation to NALA for the effective fulfilment of its mandate.
- Increase public awareness of State mechanisms to promote access to justice, especially for women victims.
- Amend the NALA Act 2008 to ensure legal representation for women from poor backgrounds through a means test criteria.

8. Marriage and Family Life

The NHRC recognises the existence of legislation such as the Children's (Amendment) Act 2016 prohibiting child marriage and setting 18 years as the minimum age for marriage, as well as the efforts of the Government to combat the practice.

However, there is weak enforcement of the law with no one prosecuted since the amendment in 2016. Debates on issues of equality in marriage and family relations are ongoing although there has not been much progress in the harmonisation of national legislation, including the Constitution, the Women's Act (2010) and personal laws (Sharia and customary law) with the Convention.

Furthermore, the State is yet to replace the term "equitable" with "equal" in the Women's Act (2010) as regards women's access to property and to ensure that judges interpret it accordingly in their judgements.

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Undertake a study on the good practices of other countries with Muslim populations which have non-discriminatory personal status laws in line with the Convention.

9. Harmful Traditional Practices

Despite the existence of numerous legislation and being party to international and regional instruments, women in The Gambia continue to be subjected to harmful practices. FGM/C and child marriage are still practiced across the country

Recommendations

The NHRC urges the Committee to recommend to the State to:

- Ensure strict implementation and enforcement of laws and policies against harmful traditional practices.
- Intensify awareness, and engagements with traditional and religious leaders, on harmful traditional practices.
- Put in place appropriate mechanisms for the prevention, protection, and quality care services for victims of harmful traditional practices.

Concluding Remarks

Chairperson, the NHRC recognises the State's efforts to eradicate all forms of discrimination faced by women and girls. However, the gaps and challenges highlighted show that the State should do more to fulfil its obligations under the Convention. The NHRC hopes that the Committee would consider the recommendations offered as it continues to engage the State in addressing the various gaps and challenges impeding the realisation of the rights guaranteed in the Convention.