



THE GAMBIA NGO SHADOW REPORT ON
THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN (CEDAW)
4TH AND 5TH STATE REPORT
CEDAW/C/GMB/4-5

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ALL FORMS OF DISCRIMINATION AGAINST WOMEN
(CEDAW)

**List of issues and questions in relation to the combined fourth and
fifth periodic reports of The Gambia**

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Submitted by

The Association of Non-Governmental organizations (TANGO), Women's Rights Organizations (WRO) and
Civil Society Organizations (CSOs)

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List of Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CSO	Civil Society Organisation
CPA	Child Protection Alliance
FGM/C	Female Genital Mutilation/Cutting
GAMCOTRAP	The Gambia Committee on Traditional Practices Affecting the Health of Women and Children
VDC	Village Development Committee
WDC	Ward Development Committee
NALA	National Agency for Legal Aid
NGO	Non-Governmental Organisation
WRO	Women's Rights Organization
TANGO	The Association of Non-Governmental Organizations
WHRD	Women's Human Rights Defenders

1 Appreciation

Appreciation and thanks to all the organizations that have made contributions to this Shadow NGO/ CSO report to the CEDAW Committee. These include The Association of Non-Governmental Organization (TANGO), The Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP), The Female Lawyers Association - the Gambia (FLAG), The Girls Agenda (TGA), Action Aid International The Gambia (AATG), Network Against Gender Based Violence (NGBV), Forum for African Women Educationalists The Gambia Chapter (FAWEGAM), Think Young Women (TYW), Education for All Campaign Network (EFANET), Child Protection Alliance (CPA), Gambia Press Union (GPU), West African Network for Peace building (WANEP), and Gambia Teachers Union (GTU). Also appreciation goes to the Executive Director of GAMCOTRAP, Dr. Isatou Touray and Mr Ousman Yabo for their technical guidance, input and advice.

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2 Introduction

This shadow report has been prepared on behalf of the Civil Society Organizations (CSO) and Women's Rights Organizations in The Gambia to respond to some critical issues of concern based on the submission by The Gambia of its Fourth and Fifth periodic reports to the Committee on the Elimination of Discrimination against Women (CEDAW) and the list of issues and questions raised by the Committee in that report¹. Therefore the following sections are responses to the specific issues raised by the Committee to The Gambia.

List of issues and questions in relation to the combined fourth and fifth periodic reports of The Gambia *

3 General context

There was limited involvement of W R s in preparation of the fourth and fifth periodic reports (CEDAW/C/GMB/4-5). During the compilation of the shadow report there was no access to The Gambia's response to the concluding remarks and list of issues raised by the CEDAW Committee.

There is no evidence showing that the state has taken measures into translating CEDAW in the local languages. Despite this, Women Rights Organizations have been engaged in sensitizing the public on the convention, using different media and in the different local languages. The state has not taken adequate measures to protect the rights of all women Human Rights Defenders, including their freedom from reprisals, violence, harassment or intimidation. Nor have they taken adequate s measures to protect the right of women's human rights organizations. The issue affecting WHRDs are underplayed and not given the right attention. There have been instant of arrests and intimation of women rights defenders and a female youth activist.

4 Constitutional, legislative and institutional framework

The legal system in The Gambia requires that Treaties ratified by The Gambia are domesticated before they can become part of The Laws of The Gambia. The provisions of the CEDAW have been domesticated through the Women's Act 2010. The Gambia has also enacted the Sexual Offences Act, 2013 and the Domestic Violence Act, 2013. These legislations are commendable and show commitment by the State party to address some of the issues relating to women's rights under the law.

Whilst the said legislation goes some way in addressing the issues relating to the status of women in The Gambia, there are still some fundamental rights of women and girls with no statutory provision and protection. Notable amongst the issues which have not been addressed by the legislations are the following:

- **FGM-There is no provision in any law criminalizing the practice of FGM;**
- **Child marriage-No minimum age for marriage has been set under the law;**
- **Marital rape-The Sexual Offences Act, 2013 do not have any provision of marital rape.**

A challenge experienced during preparation of this Shadow Report was that, there is no official data to indicate how often the provisions of the Women's Act 2010, the Sexual Offences Act, 2013 and the Domestic Violence Act, 2013 have been invoked before the Courts. We have discovered from our research that the provisions of Section 43 (4) of the Women's Act, 2010 which provides that "in the case of separation, divorce or annulment of marriage, a man and a woman have the right to an equitable sharing of

¹ The list of issues are contained in the document reference CEDAW/C/GMB/Q/4-5

* Adopted by the pre-sessional working group for the sixty-first session, meeting from 10 to 14 November 2014

the joint property derived from the marriage” have been invoked in several cases with success. We are not aware of any court cases relating to the other provisions in the Women’s Act, 2010. What is noted from the Court cases we are aware of, is that it was CSO’s particularly the Women’s Rights Organizations/ NGOs who provided legal representation to the women who filed these cases. Government has not provided legal aid to women seeking to exercise their civil remedies.

We recommended that the state

- **Undertakes a conditional a constitutional reform to conform to international law and standards, especially on the age of marriage inconsistent within the various laws and policies adopted by the state.**
- **Repeals the provision of section 33 .5 of the constitution which does not regard certain aspects of the personal law as discriminatory to women’s rights**
- **Codifies the customary laws that are applied in district tribunals in order to standardise laws in the constitution and other law obligations by the state**
- **Provides uniform school of thought for application for the cadí courts so that a standard approach to the dispensation of justice**
- **Ensures that persons appointed to preside on cases in the cadí courts are specialized in Islamic jurisprudence**
- **Removes provisions relating to personal law in the constitution and the various statutes**
- **Criminalises marital rape**

5 Access to justice

Whilst we acknowledge that there is an ADR secretariat there is limited awareness of its existence and usage to resolve conflicts relating to women’s rights issues. We have observed that women who took the initiative to go to court still suffer in accessing justice on time and they eventually give up and remain in such a dire situation. Some of them resort to reaching out to W R Os who supports them during the process. Most women do not the resources to hire a lawyer to represent them in court. Therefore most resort to go cadí court and District Tribunals, who use sharia or customary law, and not constitutional law to adjudicate and pass judgements. Often they are not guided by the interest of the woman or the girl.

We recommendation that the state

Provides Capacity building in gender sensitive training for the judiciary across all levels to enhance law application and enforcement

Provides support and resources to strengthened NALA, district, tribunals and other agencies charged with justice delivery and dispensation

6 National machinery for the advancement of women

W R Os need clarity on the formation and composition of the National Gender Machinery. As far as our awareness of the National Machinery is concerned, it is the Women’s Bureau and National Women’s Council (NWC) that are the legal entities for the advancement of women. However, the Gambia Women’s

Federation was constituted to mobilise, organise and utilise the constituency of women politically to support the existing status quo in order to advance its political agenda. We have observed that the role of the NWC has been usurped to the Gambia Women's Federation which is now presented as a mechanism for advising government on matters of policy. The federation has now been incorporated into the policy document giving it legitimacy.

We are concerned that since the ratification of CEDAW, progress has been limited to the formulation of policies and enactment of laws. Not much priority has been put on effective implementation, enforcement and monitoring of these laws and policies. The state is always late in fulfilling its reporting obligation to the CRC and CEDAW committees. It is also of a concern that the Gambia is still not a party to the Optional Protocol to CEDAW.

There is low awareness and capacity at the national machinery with regards to Women's Rights Programming thus affecting the coordination, planning and implementation of strategic women's rights issues. Those in the positions of advancing women affairs are inhibited from making decisions to advance women and girl-children's rights in the Gambia, as this could be perceived as undermining the government stance and could risk losing their jobs.

The fact that the public sees the government using the national mechanism as a tool for its partisan political activities jeopardises and undermines the national interest in recognising the rights of women without discrimination. These structural challenges hinder the extent to which women of the Gambia are able to enjoy their rights without partisan influence.

From our observation we have not seen any active mechanism other than the NWC which is highly politicised and some of its members come out publicly to show their allegiance based on party lines rather than the advancement of women's strategic interests and concerns. Most of them are manipulated by the men in order to advance their political interest.

We recommend that the state:

- Improves the capacity of the members of the NWC and the Women's Bureau in women's rights programming.
- Ensures that the NWC and the Women's Bureau function independently as per their mandate under the Act.
- Ensures that the national women's Bureau and council should follow up on the NWP to monitor on its implementation
- Ensures timely submission of reports to the various treaty bodies

6 National human rights institutions

We recommend the establishment of an independent National Human's Rights Institution.

7 Temporary Special Measures

Limited Temporary measures have been put in place at the different levels to ensure equality between men and women.

There is a need for political will amongst various political parties in domesticating and implementing the UN recommendation of at least 30% quota system in the various structures. Such temporary measures will increase the number of women in the national Assembly and at local government authority. Opening the democratic space requires explicit political will to advance gender equality in governance and having more women in leadership positions.

We recommend that the State:

Puts in place special measures to enhance women participation in decision making processes

Enact a law which would allocate at least 30% quota in all elective bodies to women, in line with UN recommendations

8 Stereotypes and harmful practices

The prevalence of FGM is still very high in The Gambia. It is still practiced by a significant number of Gambians both in the rural and urban areas and this continues to affect the sexual and reproductive health and rights as well as the bodily integrity of women and girls. About 76.3 per cent of women aged 15-49 have some form of FGM.² 42.4 per cent of women have reported that at least one of their living daughters aged 0-14 years has undergone FGM while 64.2 per cent approve of FGM.³ The practice of FGM appears more common in rural areas at 78.1 per cent than in urban areas, at 74.6 per cent.⁴ The practice is done on innocent children without their consent which leaves an everlasting and irreversible effect on their health and well being. The National Action Plan for the implementation of the National Policy expired in 2014 and the draft 2015-2017 Action Plan has yet to be approved. Financial guarantee for this Plan is not yet confirmed.

There is a presence of stereotypes (discrimination) on female staff in the police, prisons and the army especially women who get pregnant out of wedlock.

We recommend that the state:

- **Ensures reviewing the laws of this institution to cater for staff especially women who get pregnant out of wedlock**
- **Enacts a specific legislation criminalising Female Genital Mutilation and demonstrate political will to do so and make it an urgent priority as stated in the national policy on women**

9 Violence against women

The enactment of the Sexual Offences Act, 2013 and the Domestic Violence Act, 2013 is commendable and show commitment by the State party to address some issues relating to women's rights under the law. The provisions of the Sexual Offences Act, 2013 provides measures for the punishment of offenders and there is a shelter for rehabilitation under the Department of Social Welfare. Effective remedial and rehabilitation services are absent due mainly to the inadequate resource allocation to public institutions mandated to provide such services. Even though the government has complied with the provision of the Domestic Violence Act in Part II section 3 by establishing the Victims of Violence Advisory Committee, it has failed to comply with sections 4, 5, 6 and 7 of the same Act to ensure effective functioning of the committee. It is a challenge to access official data to indicate how often the provisions of these legislations have been invoked before the Courts, though some efforts were made by government and to a large extent CSOs/WROs, to address of violence against women. There is still room for improvement especially on the part of the State.

We recommend that the State:

- increase its budgetary allocations to the Department of Social Welfare and other bodies with statutory obligation to support and offer services to victims of GBV and offer and decentralize the services to grassroots
- Repeals provisions in the criminal code which relate to issues addressed in the sexual offence act 2013
- Ensures distribution and sensitization of the acts that address Gender based violence
- Ensures that prosecutors and law enforcement officers have access and comprehend the content of these acts

² UNICEF-Banjul MICS IV 2010 Report, published in 2013

- Distributes and sensitizes the public on the provisions of all the Acts that address Gender Based Violence

10 Participation in political and public life

The representation of women in governance and leadership positions is significantly less than the 30% quota system proposed as a temporary measure in the Women’s Act 2010. As at the date of writing this report; there are five female members of the National Assembly, which has a total of 53 members. This means that the main legislative body in The Gambia has only 7% female representation. In some structures it is zero percent as indicated in the table below.

Mapping Women in Governance as of April 2015			
Leadership Position	Total	No. of Women holding position	No. of men holding position
Cabinet Ministers	20	4 ⁵	16
National Assembly Members	54	5 ⁶	49
Regional Governors/ Mayors	7	1 ⁷	6
District Chiefs	40	0	40
Local Ward Councillors	115 ⁸	15	100

The gender gap is persistent in all the structures. Despite the legal environment, there are social and religious misconceptions and practices that force women in a marginalized position. There is a need for political will amongst various political parties in domesticating and implementing the UN recommendation of at least 30% quota system in the various structures. Such temporary measures will increase the number of women in the National Assembly and other elective and decision making structures.

In The Gambia, although some progress has been made in women’s development and rights, women are undeniably underrepresented in political and leadership positions despite local laws and provision under the constitution which guarantees and provides for equal participation in politics. This has made it very difficult to pass gender sensitive laws. This could be the reason why provisions relating to the criminalization of marital rape, setting a minimum age for marriage and criminalizing harmful traditional practices such as FGM have not been approved when presented before the National Assembly.

Recommendation to the state

We recommend that the

- Sensitizes, educates and builds the capacity of women about their rights to hold public office as provided in the Constitution of The Gambia 1997.
- Enacts a law to put in place the 30% quota system in the national assembly, local councils and other elective positions and select committees in all political parties
- Enforces the provision of the local government act which require equal gender representation
- The international donor partners to provide funds for CSOs/NGOs/WROs to conduct programmes/activities for women to engage in political participation.

11 Education

Overall Gross Enrolment Rates for Basic Education now stands at 97 per cent (EIMS, 2014), including the “Madarasah” (Arabic language Muslim schools). Similarly, girl’s education has improved considerably. It is noted that despite the challenges in the retention of girls in school, there is 5 % increase at enrolment during 2012-2013. Numerous factors such as preference for boys’ education, early and forced marriages, teenage pregnancy and child labour continue to retard the success of girls’ education in The Gambia, consequently leading to withdrawal, drop-outs and low performance of girls. Improvement in safety and hygiene conditions in schools over the years is also an important factor in ensuring that girls are enrolled and retained in school. CSOs and WROs continue to advocate for the enrolment, retention and public financing of girls in school by advocating for the elimination of the harmful practices that impede and infringe on their rights.

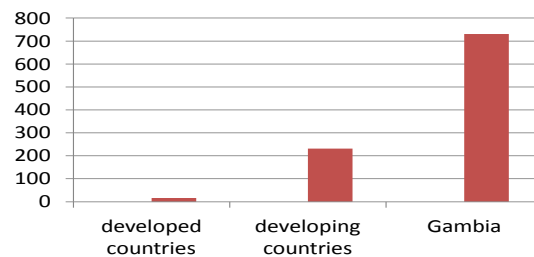
We recommend that the State:

- Sets at 18 as the minimum legal age of marriage so that girls can complete their secondary school education and aimed for higher education.
- Increases the budgetary allocations to provide for quality and relevant education for girls
- Intensifies its engagement with parents communities to keep girls in school
- Improves the school environment especially sanitation for girls in school.
- Vigorously enforces Section 28 of the Women’s Act 2010 which prohibits parents from withdrawing their girls from school for the purpose of marriage

12 Health

Unsafe abortion is a major contributory factor to the high incidence of maternal mortality. This can be visible with the current maternal mortality rate of 730/100,000 (7/1000) life births.

Maternal Mortality Rate



In the light of the above situation we call on the Gambia to harmonise the 1934 law on abortion to fall in line with the international and regional conventions and treaties to promote the sexual and reproductive health and rights of women in the Gambia and civil society organizations to sensitize and educate women on their SRHR.

We recommend that the state:

- Harmonises the 1934 law on abortion in line with the international and regional convention and treaties to promote the sexual and reproductive health and rights of women in the Gambia.
- Intensifies its awareness raising programmes and educate women on their sexual and reproductive health and rights
- Puts in place a maternal audit scheme
- Extends the provision and legalise abortion especially for pregnant girls and women who had victims incest and rape.

13 Rural women

The situation of rural women is not given the recognition it deserves generally and tends to be co-opted in the general discussion of women and development issues. They are mostly marginalised because of their location resulting to social exclusion from mainstream development initiatives that are strategic to improving their lives, coupled with cultural beliefs and values which hinders the advancement and respect for their rights. Access to strategic resources such as land to improve their production for economic gains is still a big challenge for rural women.

We recommend that the State:

- **Enforces women access to and ownership of land as the provided in the women's act 2010**
- **Ensures rural women access to markets, processing and storage facilities to add value to their products**
- **Includes credit in rural projects and programmes for women**
- **Enforces and implements decentralization plan as indicated in the local Government Act 2002 (as amended) and ensure the inclusion of rural women in leadership and decision processes.**

14 Marriage and family relations

There is very little political will to repeal the provisions of Section 33(5) of the 1997 Constitution and similar provision in other laws such as the Women's Act which make rights subject to personal law which limits the definition of discrimination to not include laws relating to adoption, marriage, burial and devolution of property on death. We find this provision to be inconsistent with international standards on women's equal right to the age of marriage and criteria used in marriage, inheritance and divorce for Muslim women. We have observed that when women initiate divorce they are left in vulnerable economic situations. Husbands do not respect court rulings in terms of child maintenance and in most cases the child is left under the custody of the mother without any support. The application and reinforcement of court outcomes for women are never given the right attention because all Cadi Courts are presided over by men. There is reluctance to appoint female Cadis and attempts made by women working within the structure are not considered.

We recommend that the State:

- **Puts in place a mechanism for registration of marriages especially in rural areas so that marriages can be documented and be recognized by all jurisdictions**
- **Appoints female cadi**
- **Trains male Cadi in women's rights and other legal instruments which protects the rights of women**

15 Data collection, monitoring, and evaluation

The state is yet to provide a comprehensive data system that addresses gaps on women and development issues. Data on women's rights is very scanty and sometimes unavailable. It is important that a robust database be generated and managed for development and policy purposes. Regular collection of disaggregated data to provide empirical evidence on the existence of violence against women and girls is still lacking. The Women's Bureau has been struggling over th to develop a data base on gender based violence but it is still not functional. We would like to recognize that for the first time some data on gender based violence was collected in the recently conducted Demographic Health Survey (DHS 2013).

The state should develop a comprehensive data system to monitor issues affecting women

16 Optional Protocol and amendment to article 20 (1) of the Convention

Our research has shown that the optional protocol to CEDAW is not signed and ratified.

We recommend that the State

- Signs and ratifies the optional protocol to CEDAW and harmonise it with current existing laws,
- Accepts the amendment to article 20(1) of the Convention