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## Gambia, The

### Country Reports on Human Rights Practices - [2005](#)

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The Gambia is a republic under multiparty democratic rule with a population of 1.6 million. President Alhaji Yahya A.J.J. Jammeh was re-elected for a five year term in 2001 in an election considered free and fair, despite some shortcomings. The main opposition coalition initially accepted the results of the presidential elections but later changed its position and boycotted the legislative elections in 2002. President Jammeh's political party, the Alliance for Patriotic Reorientation and Construction (APRC), won majorities in the National Assembly and most local councils. While civilian authorities generally maintained effective control of the security forces, there were a few instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, there were problems in some areas. The following human rights problems were reported:

- security force harassment and mistreatment of detainees, prisoners, opposition members, a journalist, and in some cases, civilians
- arbitrary arrest and detention
- incommunicado detention and prolonged pretrial detention
- denial of due process
- infringement of privacy rights
- restrictions on freedom of speech and press
- violence and discrimination against women
- female genital mutilation (FGM)
- child labor
- trafficking in persons

#### RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices; however, there were reports that security forces, notably soldiers acting outside official controls, beat persons and mistreated civilians.

The Indemnity Act continued to prevent victims from seeking redress in some cases. The army requested that victims file formal complaints so that cases could be investigated; however, there were no known prosecutions in civil courts of soldiers accused of beating or otherwise mistreating individuals during the year.

On October 4, the Police Intervention Unit (PIU)—a paramilitary wing of the police—severely beat workers at a hotel construction site for obstructing a police officer and allegedly helping to free a prisoner. Police arrested 7 of the workers and released them on bail 24 hours later. No trial had been scheduled by year's end.

There were no developments in the following 2004 cases: the January shooting by soldiers of a driver at a military checkpoint; the June beating by soldiers; the October beating of a young woman by a soldier; and the October shooting of a motorist by a soldier escorting the vice president's convoy.

There were unsubstantiated claims by opposition members that the government continued to conduct training for vigilante groups. These groups, also known as "green boys," were suspected of involvement in past human rights offenses.

#### Prison and Detention Center Conditions

Prison conditions at Mile 2, Janjanbureh, and Jeshwang prisons generally met international standards, and the government permitted visits by independent human rights observers. However, local jails were overcrowded, and inmates, including detainees awaiting trial, occasionally slept on the floor. Prison guards were reluctant to intervene in fights between prisoners, and prisoners were injured.

Political prisoners were not held separately from other prisoners.

The government permitted independent monitoring of prison conditions by local and international human rights groups.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, police and security forces at times arbitrarily arrested and detained citizens.

#### Role of Police and Security Apparatus

The armed forces are responsible for external defense and report to the secretary of state (minister) for defense, a position held by the president. The police, under the secretary of state for the interior, are responsible for public security. The National Intelligence Agency (NIA), responsible for protecting state security, collecting intelligence, and conducting covert investigations, reports directly to the president. The police generally were corrupt and ineffective. On occasion police acted with impunity and defied court orders.

#### Arrest and Detention

The law requires that authorities obtain a warrant before arresting a person; however, on occasion individuals were arrested without a warrant. Periods of detention generally ranged from a few hours to 72 hours, the legal limit after which detainees must be charged or released. There was a functioning bail system; however, on several occasions, the courts released accused offenders on bail, while the police or other law enforcement agencies rearrested the offenders upon their leaving the court. Detainees generally were permitted prompt access to family members and legal counsel; however, some detainees were held incommunicado during the year.

The government has not formally revoked military decrees enacted prior to the Constitution that give the NIA and the secretary of state for the interior broad power to detain individuals indefinitely without charge "in the interest of national security." These detention decrees appeared to be inconsistent with the constitution, but they have not been subject to judicial challenge. The government claimed that it no longer enforced these decrees; however, in some instances, there continued to be cases of detentions that exceeded the 72-hour limit beyond which detainees must be charged or released.

On January 10, the former imam of the Banjul Airport Mosque, Al-Haiba Hydera, was arrested for undisclosed reasons and detained at Janjanbureh prison for 20 days before being released on bail. Hydera was held incommunicado and a delegation of the Supreme Islamic Council that wanted to visit him in prison was refused access.

On January 11, police arrested Abdoulie Kujabi, former director general of the NIA, two of his brothers, and his sister-in-law on corruption allegations. Police later released Kujabi and his family members without charge and dropped the allegations.

On March 2, the PIU arrested the former managing director of Gambia International Airlines for alleged financial misappropriation and released him without charge after three weeks.

A government official briefly detained a journalist during the year (see section 2.a.).

On June 28, Andrew Sylva, former managing director of the social security and housing finance corporation, was acquitted of perjury for lack of evidence. In 2004 Sylva had testified before the Anti-Corruption Commission of Inquiry that President Jammeh had taken a government-owned generator from a government-owned hotel to use at his private residence.

There were no developments in the November 2004 case of businessman Momodou Jobe who was set free on bail and re-arrested by the police as he left the courthouse.

During the year the government arrested and detained opposition leaders who publicly criticized or who expressed views in disagreement with the government. For example in November three National Alliance for Democracy and Development (NADD) leaders were detained on charges of sedition and unauthorized possession of a government document (see sections 1.e. and 2.a.). No international human rights organizations reportedly requested access to the detainees.

The slow pace of the justice system resulted in lengthy pretrial detention. Approximately 40 of Mile 2 Prison's 230 inmates were in pretrial detention, and some had been incarcerated for up to 9 years. During a visit to Mile 2 Prison in April, the chief justice ordered the release of five detainees who had been in pretrial detention from four to nine years.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, in practice the courts, especially at the lower levels, were corrupt and subject to executive branch pressure at times. Nevertheless, the courts demonstrated independence on several occasions, including in significant cases.

The judicial system is composed of the Supreme Court, the court of appeal, high courts, and eight magistrate courts. District chiefs presided over local tribunals at the district level.

#### Trial Procedures

The law provides for a fair and public trial. Indigent defendants charged with murder or manslaughter have a right to an attorney provided at public expense. The prosecution prepared a case file, including testimonies and evidence and provided a copy for the defense. Defendants are presumed innocent, have the right to confront witnesses and evidence against them, present witnesses on their own behalf, have the right to an attorney at their own expense, and appeal judgment to a higher court. These rights were generally protected by the government.

The judicial system suffered from corruption, particularly at the lower levels, and from inefficiency at all levels. Cases continued to be delayed because the court system was overburdened. To alleviate the backlog and reduce the possibility of undue influence and corruption, the government continued to recruit judges and magistrates from other Commonwealth countries who share a similar legal system. The attorney general oversees the hiring of foreign judges on contract. The government reserves the right not to renew a judge's contract. Foreign judges were generally less susceptible to corruption and executive branch pressure. Despite these steps, corruption in the legal system persisted.

The judicial system recognizes customary, Shari'a (Islamic law), and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Shari'a was observed primarily in Muslim marriage and divorce matters; it favored men in its provisions (see section 5). General law, following the British model, applied to felonies and misdemeanors in urban areas and to the formal business sector.

On June 23, Ousainou Darboe, a lawyer and leader of the opposition United Democratic Party (UDP) who was charged with the 2000 murder of ruling APRC party supporter Alieu Njio, was acquitted. The four persons arrested with him were also acquitted.

#### Political Prisoners

During the year the government detained executive members of the NADD in connection with allegations of subversive activities and threats to national security. Reportedly no international human rights organizations requested access to the detainees, but they were allowed access to family members.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and although the government generally respected these prohibitions, there were some exceptions. The government has not repealed Decree 45, which abrogates constitutional safeguards against arbitrary search and permits search and seizure of property without due process. This decree formally remained in effect, pending a judicial finding that it is unconstitutional; however, in practice the government did not use it. In some instances security forces forcibly and without warrants entered homes to arrest citizens. In November three NADD members were arrested without warrants and held for questioning without charge for 72 hours.

Observers believed the government monitored citizens engaged in activities that it deemed objectionable.

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

The law provides for freedom of speech and the press; however, the government limited these rights by intimidation and restrictive legislation. Journalists practiced a degree of self-censorship.

On occasion security forces detained persons who publicly criticized or who expressed views in disagreement with the government. For example in November two of the three NADD opposition leaders were charged with sedition for statements made in a press statement including a statement by one of the two referring to the president as a "brutal dictator." The government published one newspaper, *The Gambia Daily*. The *Daily Observer*, although privately owned, tended to favor the government in its coverage. There were three other independent newspapers, including one published by an opposition political party. There was one independent weekly magazine.

During the year one government-owned and four private radio stations broadcast throughout the country. There were at least two independent radio stations. Local stations rebroadcast the BBC, Radio France Internationale, the Voice of America, and other foreign news reports, and all were available via short-wave radio. Both the government-owned GRTS television and foreign cable and satellite television channels were available in many parts of the country. The government allowed unrestricted access to satellite television, and residents who could afford it received independent news coverage by satellite dish or antenna.

The deterioration of the country's media environment continued during the year. In October the government revoked the operating license of Senegalese-owned radio station Sud FM for allegedly broadcasting derogatory remarks regarding both the Senegalese and Gambian governments. Sud FM's closure worsened the already strained relationship between the media and the government. The radio station remained closed at year's end.

During most of the year government-owned television and radio gave very limited coverage to opposition activities, but some statements by opposition parliamentarians in the National Assembly were reported.

Unlike in the previous year, no journalists were killed or injured by unknown assailants.

Unlike in the previous year, there were no attacks or threats on the independent media.

There were fewer reports than in the previous year that the government harassed journalists and editors of newspapers that published articles it considered inaccurate or sensitive. However, in October a journalist with *The Independent* newspaper, Pa Modou Secka, was detained at Soma Police Station for more than four hours by an immigration officer who accused the journalist of trying to destroy the good image of the country. He was released without charge. Also in October the editor of *The Independent*, Musa Saidy Khan, was reportedly questioned by authorities for several hours for security reasons.

There were no developments in the following 2004 cases: the April arson attack on the printing press of *The Independent* newspaper; the July detention and beating of Seedy Fanneh; the August arson attack on the home of a BBC stringer; and the December murder of Deyda Hydera, the editor and publisher of *The Point* newspaper.

Although the independent press practiced a degree of self-censorship, the press frequently voiced strong, direct criticism of the government, and opposition views regularly appeared in the independent press.

There were no government restrictions on the Internet or academic freedom.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice; however, in November and December the police obstructed NADD's ability to hold rallies in support of their detained leaders. Although permits were granted for the rallies, the police refused, allegedly for security reasons, the use of public address systems at the rallies.

##### Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. The AFPRC's Decree 81 requires nongovernmental organizations (NGOs) to register with the National Advisory Council, which has the authority to deny, suspend, or cancel the right of any NGO to operate, including that of international NGOs.

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

##### Societal Abuses and Discrimination

There was no known Jewish community, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2005 [International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights but allows for "reasonable restrictions," which the government at times enforced.

The law prohibits forced exile, and the government did not use it.

##### Protection of Refugees

The law did not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing such protection to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum.

The government cooperated with the office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The constitution provides for the democratic elections of the president and National Assembly every five years. The APRC remained the dominant political party.

#### Elections and Political Participation

International observers described the 2001 presidential electoral process as generally free and fair, despite some shortcomings. President Jammeh won approximately 53 percent of the vote. The opposition political parties initially conceded the elections but then accused the government of bribing voters and issuing threats, both explicit and veiled, against individuals and communities that did not support the incumbent. Observers agreed there probably were some irregularities in the registration process but on a much smaller scale than the opposition coalition alleged. The postelection period was marred when Jammeh fired more than 20 village heads and civil servants who had not publicly supported for him during the campaign or who had been accused of corruption or incompetence; security forces also arrested and detained many opposition supporters throughout the country.

The major opposition coalition boycotted the 2002 national assembly elections accusing the Independent Electoral Commission of allowing fraudulent voter registrations and mismanaging both the presidential and legislative elections. The boycott was criticized widely as unjustified and as an inappropriate response to the alleged fraud and left many of the opposition's own candidates unfunded and unsupported during the elections. The APRC won the majority for the National Assembly. The People's Democratic Organization for Independence and Socialism (PDOIS) won two seats and the National Reconciliation Party won one seat. The president appointed 4 members of his own party and 1 former opposition presidential candidate to the 48-member National Assembly.

On January 17, five of the country's opposition parties formed an alliance to contest the 2006 presidential and 2007 National Assembly elections. Leaders of the National Democratic Action Movement, the National Reconciliation Party, the PDOIS, the PPP and the UDP signed the Memorandum of Understanding that established NADD.

The four members of the National Assembly who fell under the newly-formed NADD were required by a supreme court decision to vacate their seats in July and run in a special election. In September three of the four opponents won their seats back in a special election deemed by international observers to be generally free and fair. The assembly member who lost contested the vote in court.

The government arrested political leaders during the year (see section 1.d.).

There were 6 women in the 54-seat National Assembly; 3 were elected, 3 were appointed by the president. There were 4 women in the 15-member cabinet, including the vice president.

There were no statistics available on the percentage of minorities who compose the legislature or the cabinet. President Jammeh and some members of his administration were from the previously marginalized minority Jola ethnic group.

#### Government Corruption and Transparency

Official corruption remained a serious problem despite government efforts to curb it.

On April 27, Lang Conteh, a former foreign exchange manager at the Central Bank of The Gambia, pleaded guilty to charges of defrauding the bank of \$7.72 million (216 million dalasi). Conteh entered a plea bargain, was sentenced to one year in prison, and agreed to forfeit some of his properties to the state.

On March 21, the Commission of Inquiry, which the president established in 2004 to investigate the assets of all senior officials who served in the government during the past 10 years, submitted its report. The commission submitted a four-volume report detailing widespread instances of alleged tax evasion and fraud among high ranking public officials. A number of senior government officials, including cabinet ministers, subsequently lost their jobs and forfeited assets to the state. However, some officials who were sanctioned by the commission were reappointed to government positions after paying fines stipulated by the commission.

Also in July the special commission of inquiry established to investigate alleged corruption surrounding a \$3 million (85 million dalasi) fiber optic cable transaction by the national telecommunications company GAMTEL submitted its findings. The commission's reports were never published and no formal charges were filed, but two senior officials at the company subsequently lost their jobs. GAMTEL's managing director at the time of the transaction was dismissed from his position; however, he was reinstated a few months later.

The law does not provide for public access to government information. Under the Official Secrets Act, civil servants are not allowed to divulge information about their department or to speak to the press without prior clearance with their head of department. In some cases journalists from certain independent newspapers have been refused access to public events, apparently because certain government officials disapproved of their editorial stance.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

#### [Section 5 Discrimination, Societal Abuses, and Trafficking in Persons](#)

The constitution prohibits discrimination based on race, religion, sex, disability, language, or social status, and the government generally enforced these prohibitions.

##### Women

Domestic violence, including spousal abuse, was a problem. It was reported occasionally, but its occurrence was believed to be common. Police considered these incidents to be domestic issues outside of their jurisdiction. There was no law prohibiting domestic violence; however, cases of domestic violence could be prosecuted under laws prohibiting rape, spousal rape, and assault. The penalty for rape is life in prison and it was enforced. Although the law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it.

The law does not prohibit FGM and the practice remained widespread and entrenched. Between 60 and 90 percent of women have undergone FGM. Approximately 7 of the 9 major ethnic groups practiced FGM at ages varying from shortly after birth until age 16. FGM was less frequent among the educated and urban segments of those groups. There were unconfirmed reports of incidences of health-related complications, including deaths, associated with the practice of FGM; however, no accurate statistics were available. The government publicly supported efforts to eradicate FGM and discouraged it through health education; however, authorities have not passed legislation against FGM, which was not considered a criminal act. President Jammeh stated that the government would not impose a ban on FGM but has spoken out against it publicly, and his administration worked to convince traditional village leaders to abandon the practice. Practitioners of FGM and other types of circumcision believed that Islam mandates it; however, at least one influential imam declared that Islam forbids such harmful customs. Several NGOs conducted public education programs to discourage the practice, and the National Assembly Select Committee on Women and Children also campaigned actively against FGM and other harmful traditional practices affecting the lives of women and children.

Prostitution is illegal but was a problem, especially in the tourist areas. The government expelled numerous foreign prostitutes. The 2003 Tourism Offences Act was passed to deal with increasing incidents of tourism-related offences, including sex tourism. The act prohibits child prostitution, trafficking, and pornography.

There were no laws against sexual harassment. Although individual instances have been noted, sexual harassment was not believed to be widespread.

Traditional views of women's roles resulted in extensive societal discrimination in education and employment. Employment in the formal sector was open to women at the same salary rates as men. No statutory discrimination existed in other kinds of employment; however, women generally were employed in such pursuits as food vending or subsistence farming.

Shari'a law is applied in divorce and inheritance matters for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than did males. The appropriate church and the Office of the Attorney General settled Christian and civil marriage and divorce matters.

Marriages often were arranged and, depending on the ethnic group, polygamy was practiced. Women in polygamous unions have property and other rights arising from the marriage. They also have the option to divorce but not a legal right to approve or be notified in advance of subsequent marriages. The Women's Bureau, which is under the Office of the Vice President, oversees programs to ensure the legal rights of women. Active women's rights groups existed.

##### Children

The government was committed to children's welfare. The Department of Education and the Department of Health and Social Welfare were the two most generously funded government departments; however, lack of resources limited state provision of both education and health services.

In June the government passed the Children's Act, a comprehensive piece of legislation designed to protect and promote the welfare of children and to curb abuses against children, such as trafficking in persons.

The law mandates free, compulsory primary education up to eight years of age, but the state of the educational infrastructure prevented effective compulsory education, and children still must pay school fees. During the year the government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in the Islamic schools called "madrasas." Girls constituted approximately 51 percent of primary school students and roughly one-third of high school students. The enrollment of girls was low, particularly in rural areas where a combination of poverty and sociocultural factors influenced parents' decisions not to send girls to school. As part of the government's initiative to get girls to go to school, the government implemented a countrywide program to pay school fees for all girls.

Authorities generally intervened when cases of child abuse or mistreatment were brought to their attention; however, there was no societal pattern of abuse against children. Any person who has carnal knowledge of a girl under the age of 16 is guilty of a felony (except in the case of marriage, which can be as early as 12 years of age). Incest also is illegal. These laws generally were enforced. Serious cases of abuse and violence against children were subject to criminal penalties.

Trafficking of children for prostitution was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

The Child Protection Alliance (CPA), a consortium of various organizations (national and international) that promote the protection of children from abuse, conducted countrywide workshops for teachers on alternatives to corporal punishments and awareness campaigns for community and religious leaders on sexual exploitation of children. In August the CPA conducted a 3-day training course for 40 law enforcement officers on investigative and interviewing techniques to combat sexual abuse and exploitation of children. The course was a continuation of a similar training conducted for 30 security officers conducted in September 2004 in collaboration with the Dutch-based NGO, Terre des Hommes.

#### Trafficking in Persons

Trafficking occurred, and the government considered it a serious problem. In June the government enacted the Children's Act, which explicitly prohibits trafficking in persons, particularly children; however, there were no prosecutions for trafficking by year's end.

The penalty for trafficking in children (anyone under the age of 18) is life in prison, along with a substantial monetary fine. Before the passing of the Children's Act, there were no laws that specifically prohibited trafficking in persons. Enforcement of the act is primarily the responsibility of the Tourism Security Unit, a unit of the national army created specifically to enhance security in the tourism sector and keep minors out of the resort areas. There were no prosecutions under this law by year's end.

The country was a source, transit point, and destination for trafficked persons. The number of persons, mostly children, trafficked for commercial sexual exploitation was small but growing.

In January 2004 a joint UN Children's Fund (UNICEF)-government study reported that children engaged in prostitution in the main tourist resort areas were predominantly underage, some as young as 12. The report stated that the country has become an attraction for suspected or convicted European pedophiles that entered the country as tourists and committed their crimes against children with impunity. Victims of trafficking were children of both sexes, normally younger than 16 to 18 years old, and included both citizens and immigrants or refugees from Sierra Leone, Liberia, Senegal, and Guinea-Bissau. The foreign children were war migrants without proper family support.

Most trafficking victims were forced into prostitution and/or begging; a few became domestic servants. Trafficking victims mostly came from conflict-ravaged countries, such as Liberia and Sierra Leone. Victims from Senegal, Guinea Bissau, and Sierra Leone told CPA that foreign residents obtained permission from their home country families to employ them as bar waitresses or domestic maids. After their arrival the local employers informed them their duties entailed commercial sex work.

Some child prostitution victims stated they worked to support their families, or because they were orphans and their guardian/procurer supported them. The guardian/procurer often assumed the role of the "African uncle," allowing the children to live in his compound with their younger siblings or paying school fees on their behalf in return for their servitude.

There was no evidence of government involvement at any level in trafficking in persons.

The government had no established victim care and health facilities for trafficked persons. Although a shelter for trafficked children was completed, it did not open in November as scheduled. The government provided temporary shelter and access to medical and psychological services to reported victims of trafficking.

In July the government, in collaboration with foreign donors, organized the First Annual Conference on Best Practices to Combat the Trafficking of Children in The Gambia. The one-day conference brought together representatives of international organizations, policy makers, and civil society to analyze the extent of child trafficking in the country and to develop measures to eradicate the violation of children's rights. In 2004 the government created a multi-agency trafficking in persons taskforce, which consisted of representatives from the departments of immigration, police, national intelligence, justice, foreign affairs, social welfare, and trade and industry as well as from UNICEF, the National Assembly, and the CPA.

#### Persons with Disabilities

There were no statutes or regulations requiring accessibility for persons with disabilities. No legal discrimination against persons with physical disabilities existed in employment, education, or other state services; however, some societal discrimination existed towards persons with disabilities. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered little discrimination in employment for which they physically were capable. There were no laws to ensure access to buildings for persons with disabilities, and very few buildings in the country were specifically accessible to persons with disabilities.

## Other Societal Abuses and Discrimination

There was evidence of societal discrimination against persons infected with the HIV/AIDS virus. Stigma and discrimination hindered disclosure and led to rejection from partners and relatives. In some cases persons infected with HIV/AIDS were prevented from meeting visitors.

The government committed itself to protecting the rights of persons living with HIV/AIDS by developing a five-year National Strategic Plan that includes the provision of care, treatment, and support to persons living with, or affected by, HIV/AIDS.

## Section 6 Worker Rights

### a. The Right of Association

The Labor Act, which applies to all workers except civil servants, specifies that workers are free to form associations, including trade unions, and workers exercised this right in practice. Unions must register to be recognized, and there were no cases where registration was denied to a union that applied for it. The act specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active.

In 2004 the International Confederation of Free Trade Unions reported that the government had not implemented the eight International Labor Organization (ILO) conventions known as "core labor rights" and criticized the government for prohibiting civil servants from forming unions. The government responded that it is updating the Labor Act to incorporate the ILO conventions; however, no new labor legislation was in place at year's end.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the government intervened to assist workers who were fired or discriminated against by employers.

### b. The Right to Organize and Bargain Collectively

Unions were able to negotiate without government interference; however, in practice the unions lacked experience, organization, and professionalism, and often turned to the government for assistance in negotiations. The law allows workers to organize and bargain collectively, and although trade unions were small and fragmented, collective bargaining took place. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management. The act also sets minimum contract standards for hiring, training, and terms of employment, and provides that contracts may not prohibit union membership.

The law authorizes strikes but also places restrictions on strikes by requiring unions to give the commissioner of labor 14 days' written notice before beginning an industrial action (28 days for essential services); given the restriction on strikes and weak trade unions, no strikes occurred during the year. The law specifically prohibits police officers and military personnel, as well as other civil service employees, from striking. Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. It prohibits retribution against strikers who comply with the law regulating strikes.

There is a government-established export-processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. The labor code covers workers in the EPZs, and they were afforded the same rights as workers elsewhere in the economy.

### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

### d. Prohibition of Child Labor and Minimum Age for Employment

The statutory minimum age for employment is 14 years; however, child labor was a problem. There was no effective compulsory education, and because of limited secondary school openings, most children completed formal education by the age of 14 and then began work. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading. In rural areas most children assisted their families in farming and housework. In urban areas many children worked as street vendors or taxi and bus assistants. There were a few instances of children begging on the street. The tourist industry stimulated a low, but growing level of child prostitution (see section 5). Employee labor cards, which include a person's age, were registered with the labor commissioner, who was authorized to enforce child labor laws; however, enforcement inspections rarely took place. The Department of Labor under the Department of State for Trade and Employment was responsible for implementing the provisions of the ILO Convention 182 on the worst forms of child labor; however, the government generally was ineffective in enforcing those provisions.

### e. Acceptable Conditions of Work

Minimum wages and working hours are established by law through six joint industrial councils, comprised of representatives from labor, management, and the government. The lowest minimum wage, according to law was approximately \$0.42 (12 dalasi) per day for unskilled labor, but in practice the minimum wage was approximately \$1.78 (50 dalasi). The national minimum wage did not provide a decent standard

of living for a worker and family. The minimum wage law covered only 20 percent of the labor force, essentially those workers in the formal economic sector. A majority of workers were employed privately or were self-employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families. The Department of Labor is responsible for enforcing the minimum wage and it did so when cases of underpayment were brought to its attention.

The basic legal workweek is 48 hours within a period not to exceed 6 consecutive days. Nationwide, the workweek included four eight-hour workdays and two four-hour workdays (Friday and Saturday). There are no limits on hours worked per week and no prohibition on excessive compulsory overtime. A 30-minute lunch break is mandated. Government employees are entitled to one month of paid annual leave after one year of service. Most government employees were not paid overtime. However, government workers holding temporary positions and private sector workers received overtime calculated per hour. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service.

The law specifies safety equipment that an employer must provide to employees working in designated occupations. The law also authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. Enforcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the labor department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice workers who do so risk loss of employment.

The law protects foreign workers employed by the government; however, it only provides protection for privately employed foreigners if they have a current valid work permit. Legal foreign workers may join local unions.

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