



## 2008 Human Rights Reports: The Gambia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

**2008 Country Reports on Human Rights Practices**

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The Gambia is a multiparty, democratic republic with a population of 1.5 million. In 2006 President Alhaji Yahya Jammeh was reelected for a third five-year term in an election considered partially free and fair. President Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC), continued to dominate after the National Assembly elections held in January 2007, which were also considered partially free and fair. In the local government elections held in January, the ruling APRC won the two contested mayoral seats as well as an overwhelming majority of the local council seats. The elections were considered free and fair but observers expressed concern over the low voter turnout. In 2006 a coup attempt was uncovered, and approximately 50 suspects were detained, one of whom remained in detention undergoing trial on charges of treason at year's end. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently.

The government's respect for the human rights of its citizens did not improve during the year. Amnesty International (AI) reported in November that "fear rules" in The Gambia and the human rights situation has worsened since a foiled coup attempt against President Jammeh in 2006. Although the constitution and law provide for protection of most human rights, there were problems in many areas. Prison conditions remained poor, resulting in deaths. Arbitrary arrests and detentions, often without warrants, continued. Security forces harassed and mistreated detainees, prisoners, opposition members, and journalists with impunity. Prisoners were held incommunicado, faced prolonged pretrial detention, held without charge, denied access to families and lawyers, and were tortured and denied due process. The government restricted freedom of speech and press through intimidation, detention, and restrictive legislation. Women experienced violence and discrimination, and female genital mutilation (FGM) remained a problem. Child labor and trafficking in persons also were problems.

### 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.

On November 25, Dodou Janneh, a police volunteer attached to the National Drug Enforcement Agency, was convicted of the May 2007 killing of Sheriff Minteh during a police raid in Serrekunda.

There were no developments in the case of five detainees accused of involvement in the 2006 coup plot and who the government claimed had escaped during a prison transfer.

On August 15, the United Nations announced that a joint fact-finding team from the UN and the Economic Community of West African States (ECOWAS) would look into the deaths of a number of Ghanaian nationals, some of whom were found buried in The Gambia in 2005. Media reported that more than 50 Ghanaians and other West

African nationals were killed. The team was established at the request of both governments and includes representatives appointed by The Gambia and Ghana.

b. Disappearance

There were no reports of politically motivated disappearances during the year.

The government denied holding journalist "Chief" Ebrima Manneh who disappeared in 2006. However, on June 5, the ECOWAS Community Court of Justice ordered the Gambian authorities to release Manneh, who was reportedly arrested by state security agents. The court declared his continued detention illegal and ordered the government to pay compensation of \$100,000 (dalasi 2,700,000) to Manneh's family (the fine was specified in dollars). The ruling followed a lawsuit filed in June 2007 by the Media Foundation for West Africa (MFWA) based in Ghana. The government did not send representatives to the trial despite numerous subpoenas. In July 2007 Manneh was reportedly sighted seeking medical treatment under police supervision at a hospital in Banjul, but his whereabouts remained unknown at year's end.

On March 19, Foroyaa newspaper reported that United Democratic Party (UDP) supporter Kanyiba Kanyi, who was arrested at his home in Bonto village in 2006 by men believed to be state security agents, was reportedly sighted at the Royal Victoria Hospital on March 14 under the escort of wardens from Mile 2 Central Prison. A family member told Foroyaa that one of their relatives saw Kanyi at the out-patients unit, where he went for a medical check up. Kanyi appeared weak and was being assisted by his guards.

On May 21, Kanyi's lawyer filed a fresh application to force the state to comply with the October and December 2006 high court rulings to free Kanyi. This application was supported by an affidavit from a former political detainee, elected local councilor Ousman Rambo Jatta, who stated he was held with Kanyi in one of his places of detention. The judge expressed disappointment that the previous high court ruling had been flouted and stated that it was clear Kanyi was in the hands of state security. The prosecutor stated that his office had written to the security agencies asking them to comply with the court order but had not received a response. The lawyer maintained that Kanyi is being held by the National Intelligence Agency (NIA).

The whereabouts of former chief of defense Colonel Ndure Cham, the alleged mastermind of the 2006 coup plot, remained unknown at year's end.

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

The constitution and law prohibit such practices; however, there were reports that security forces beat, tortured, and mistreated persons in custody.

During the trial that concluded in April of nine separatist rebels from the Senegalese province of Casamance, four of the accused told the court that they were severely tortured during detention and stated their statements presented as evidence were obtained under duress. Similar claims of torture were made by detainees held in connection with the 2006 coup plot. The government did not respond to these allegations.

On March 1, Amadou Sanyang of Latrikunda Picadilly alleged that he was stabbed by an officer of the Police Intervention Unit (PIU). Sanyang told a local newspaper that the incident happened when four PIU officers arrested several young men after accusing them of smoking cannabis. He identified two of his assailants as Abubacarr Sidi Mass and Lamin Ceesay. The officer-in-charge of the police human rights unit confirmed the report and stated the matter had been brought to the attention of the relevant authorities. There were no further developments at year's end.

On June 24, five residents of Lamin Daranka, who were evicted from their homes and arrested, stated they were severely beaten with batons and tortured by officers of the PIU. Musa Manneh, Lamin Sarjo, Abdoulie Jatta, Numo Sarjo, and Ebrima Jatta showed a local journalist bruises and other injuries which they alleged were inflicted by the PIU officers during their arrest and transfer to Yundum Police Station. They were held for four days before being granted bail.

On September 29, Abdoulie Faye, who was convicted of stealing a ram, told a magistrate court that seven agents of the Criminal Investigation Division of The Gambia Police Force tortured him during his detention at the Banjul Police Station. Faye stated he was arrested on September 11, detained for 18 days, and repeatedly denied bail despite several attempts to obtain it by his relatives.

The Indemnity Act continued to prevent victims from seeking redress in torture cases related to official actions taken by military personnel during military rule from 1994-96. The army requires victims to file formal complaints with the courts regarding alleged torture that occurred outside the official military rule period. However, there were no known prosecutions in civil or military courts of security force members accused of mistreating individuals during the year. At the closing ceremony of a civil-military relations seminar in August 2007, the chief of defense staff publicly announced a zero-tolerance policy for military abuse of civilians, and some reports indicated such abuse may have declined.

In November 2007 the MFWA filed a lawsuit against the government at the ECOWAS court over the 2006 illegal detention and torture of journalist Musa Saidykhan, editor in chief of The Independent newspaper. Saidykhan claimed electric shocks were administered to his naked body during his 22-day detention before he was released without being charged. No government representative appeared at the ECOWAS hearing and the government did not respond to the torture allegations by year's end.

#### Prison and Detention Center Conditions

Prison conditions generally did not meet international standards, although detention center conditions generally did. The government permitted some visits by independent human rights observers, but they were not allowed to visit detainees and prisoners connected to matters considered politically sensitive.

Local jails were overcrowded, and inmates, including detainees awaiting trial, occasionally slept on the floor. Inmates complained of mistreatment by guards, poor sanitation, and inadequate nutrition, and often relied upon outside sources of food, which was allowed prior to conviction. Prison guards were reluctant to intervene in fights between prisoners, which resulted in injuries.

Although prison officials made attempts to improve prisoners' nutrition and well-being during the year, there were unconfirmed reports of deaths of prisoners at the Mile 2 Prison due to poor diet, health, and living conditions. AI reported it was aware of at least 19 persons who have died while in Mile 2 Prison since 2005. Prison officials maintained that prisoners had access to round-the-clock medical care.

There were reports that women occasionally were held with men. During her trial in 2007, convicted murderer Tabara Samba stated in court that she was held in the same cell with male prisoners.

Pretrial detainees were held together with convicted prisoners.

The government permitted restricted independent monitoring of prison conditions by some local and international human rights groups; however, neither the media nor the International Committee of the Red Cross was granted access to detainees or prisoners during the year.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, there were numerous instances of police and security forces arbitrarily arresting and detaining citizens.

#### Role of the 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 NIA is responsible for protecting state security, collecting intelligence, and conducting covert investigations, and reports directly to the president. The NIA is not authorized to investigate police abuses, but during the year the NIA often assumed police functions such as detaining and questioning criminal suspects. Security forces frequently were corrupt and ineffective. On occasion security forces acted with impunity and defied court orders.

The police's human rights and complaints unit receives and addresses complaints of human rights abuses committed by police officers from both civilians and other police officers. During the year the unit received several complaints, and some police officers faced disciplinary actions as a result.

There were no developments in the case of two women who claimed to have been raped in April 2007 by three men they alleged were police officers.

#### Arrest and Detention

The law requires that authorities obtain a warrant before arresting a person; however, in practice individuals often 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; however, there were numerous instances of detentions surpassing the limit.

On April 28, a prominent businessman, Alhaji Banta Kaira, and a business consultant, Dodou Jobe, were arrested by state security agents and held at Mile 2 Central Prison. There was no official information about the reasons for their detention. Kaira was released on bail on May 26 and Jobe was released on June 28.

In May the Financial Director of the NIA, Bakary Gassama, was arrested and held for several months before being charged and brought to court on September 26 on one count of abuse of office. On December 3, the court discharged him but he was immediately rearrested and was in detention at year's end.

On December 12, a local newspaper reported that two brothers, Lamin Marong and Ebrima Marong, had been in detention for three months without charge and remained in detention at year's end.

On December 16, a Nigerian pastor, Gideon A. Adeoye was arrested for allegedly "spreading false information" about the country's military. At year's end he was still in detention.

There was a functioning bail system; however, on occasion, the courts released accused offenders on bail, while the police or other law enforcement agencies rearrested offenders upon their leaving the court. Detainees generally were not promptly informed of charges against them, nor were they allowed prompt access to a lawyer or family members. However, convicted prisoners were generally permitted to meet privately with their attorneys. Persons accused of murder or manslaughter, and who are indigent, are provided a lawyer at public expense.

Military decrees enacted prior to the adoption of the constitution give the NIA and the secretary of state for the interior broad powers to detain individuals indefinitely without charge "in the interest of national security." These detention decrees are inconsistent with the constitution, but they have not been subject to judicial challenge. The government claimed that it no longer enforced the decrees; however, there were several cases during the year of detentions that exceeded the 72-hour limit. There were also reports that some government employed detainees held at length without conviction were not paid their salaries, although the law provides that civil servants, including military officers, in detention or on trial for criminal offenses be paid half of their salary. The second half is paid to them in the case of acquittal.

There were no reports of arbitrary arrests of political opponents during the year. However, the whereabouts of some political detainees, including a journalist and an opposition supporter detained in 2006, remained unknown at year's end.

During the year some detainees were held incommunicado for extended periods.

One suspect in connection with the 2006 coup attempt remained in detention at year's end. Hamadi Sowe was charged with concealment of treason and his trial, which began in December 2007, was ongoing at year's end. On April 16, security force member Yaya Bajinka, who was arrested in connection with the 2006 coup plot, was released unconditionally.

On May 14, Foroyaa newspaper reported that former National Intelligence Agency operative Kebba Secka had been detained for a year at Mile 2 Prison. He had not been charged or brought to court by year's end.

Backlogs and inefficiency in the justice system resulted in lengthy pretrial detentions. Approximately 30 inmates in the prison system were in pretrial detention, and some had been incarcerated for several years while awaiting trial. Several long-term detainees were released without charge or pardoned during the year.

#### e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the courts demonstrated independence on several occasions. However, in practice the courts, particularly at the lower levels, were corrupt and at times subject to executive pressure. AI noted that the presidential power to remove a judge in consultation with the Judicial Service Commission (JSC) impedes judicial independence. In practice, during the year the president removed three High Court judges without consulting the JSC.

Judges presiding over "sensitive" cases and who made decisions not considered favorable to the government risked being fired. On July 10, newly appointed High Court Judge B.Y Camara was dismissed, but later reinstated, without explanation, but unconfirmed reports stated his firing was linked to his handling of the trial of foreign fugitive Christopher Badjie. Also on July 10, Justice Haddy Roche, who in previous years made decisions not favorable to the government, was dismissed from her job without explanation. She was later reinstated as the presiding judge at the Commercial Division of the High Court. On September 11, Justice Naa-Ceesay Sallah-Wadda of the High Court in Banjul, was dismissed without explanation. Her firing was reportedly related to her decision to grant bail to British mining engineer Charles Northfield, who was arrested on February 12 when the mining license of his employer, Carnegie Minerals, was withdrawn. In late August Northfield jumped bail and fled to the United Kingdom. Justice Sallah-Wadda was also reinstated in her job.

There were instances of the government and security forces disregarding court orders when suspects were rearrested so that the prosecution could have more time to prepare its case.

On February 14, two suspects in a government vehicle theft case, former presidential bodyguard Bakary Camara and the managing director of Boto Construction Company, Modou Lamin Sonko, were granted bail by the Banjul Magistrate's Court, but rearrested and detained for more than 72 hours. Sonko was later released but Camara was retried and sentenced to one year in prison.

On June 10, former Police Superintendent Manlafi Sanyang, who was standing trial on charges of theft of a government vehicle, was acquitted by a court in Banjul but was immediately rearrested by the police who pressed fresh charges against him. Sanyang, who served seven months in detention during the trial, was convicted on August 14 and sentenced to 13 months in prison. He died in prison six days later.

On August 6, police rearrested Kenyan-born Dida Halake, the former managing director of the Daily Observer, who was standing trial for providing false information, after the Kanifing Magistrates Court dismissed the case against him for lack of evidence. Halake, who has British nationality, was detained briefly at Serrekunda Police Station but was later released unconditionally and has returned to the UK.

The judicial system is composed of the Supreme Court, the Court of Appeal, high courts, and eight magistrate courts. Cadi courts have jurisdiction over Islamic matters of marriage, divorce, land disputes, and inheritance where Muslim parties are involved. District chiefs preside over local tribunals that administer customary law at the district level. Cadi courts and district tribunals do not offer standard legal representation to the parties involved, since lawyers are not trained in Islamic or customary law. Military tribunals cannot try civilians.

In June 2007 a judicial complaints board was established in the Office of the Chief Justice. The board is chaired by the chief justice and includes the attorney general and secretary of state for justice, the secretary of state for the interior, the inspector general of police, the director general of the NIA, the master of the high court, and the judicial secretary. The board reportedly was fully operational and heard several complaints during the year.

#### Trial Procedures

The constitution and law provide for a fair and public trial, and the judiciary generally enforced this right, although frequent delays and missing or unavailable witnesses, judges, and lawyers often impeded the process. Many cases were also delayed because of adjournments designed to allow the police or NIA time to continue their investigations. Both civilian trials and courts martial are held in public, but occasionally closed-court sessions were held to protect the identity of a witness. No juries are used in the civilian courts, but courts martial proceedings are presided over by a judge advocate assisted by a panel of senior military officers.

Indigent defendants charged with murder or manslaughter have a right to an attorney provided at public expense. The prosecution prepares a case file, including testimonies and evidence, and provides 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, and appeal judgment to a higher court. The law extends the above rights to all citizens, and there were no groups that were denied these rights. According to AI, detainees were rarely informed of their rights and/or reason for their arrest or detention.

The judicial system suffered from inefficiency at all levels. Cases continued to be delayed because the court system was overburdened. To alleviate the backlog, the government continued to recruit judges and magistrates from other Commonwealth countries that have 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.

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. General law, following the British model, applied to felonies and misdemeanors in urban areas and to the formal business sector.

#### Political Prisoners and Detainees

During the year there were credible reports that the government held civilians based on their political views or associations and that some were held incommunicado for prolonged periods. Unlike the previous year, there were no reports that the government arrested and detained opposition members who publicly criticized or who expressed views in disagreement with the government.

#### Civil Judicial Procedures and Remedies

The High Court has jurisdiction to hear cases for civil and human rights violations, although it may decline to exercise its powers if it is satisfied that adequate means of redress are available under other laws. The Indemnity Act continued to prevent victims from seeking redress in some cases.

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

The constitution and law prohibit such actions, but the government did not always respect these prohibitions in practice. Decree 45, which provides constitutional safeguards against arbitrary searches and the seizure of property without due process, remained in effect, and the government generally enforced it.

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 constitution and law provide for freedom of speech and of the press; however, the government limited these rights by intimidation, detention, and restrictive legislation. Although the independent press practiced a degree of self-censorship, opposition views regularly appeared in the independent press, and there was frequent criticism of the government in the private media.

The government published one newspaper, The Gambia Daily. The privately owned Daily Observer favored the government in its coverage. There were seven other independent newspapers, including one published by an opposition political party that remained highly critical of the government. There was one independent biweekly magazine.

One government-owned and nine private radio stations broadcast throughout the country. During most of the year the government-owned Gambia Radio and Television Services (GRTS) gave limited coverage to opposition activities. GRTS television rebroadcasts CNN while local radio stations rebroadcast the BBC, Radio France Internationale, the Voice of America, and other foreign news reports, and all were available via shortwave radio. GRTS television, foreign cable, and satellite television channels broadcasting independent news coverage were available in many parts of the country, and the government allowed unrestricted access to such networks.

The deterioration of the country's media environment continued during the year. The government harassed journalists who wrote articles it considered inaccurate or investigated cases it considered sensitive. Several journalists reportedly went into hiding out of fear of government retaliation.

On May 19, a magistrate in Banjul acquitted Mamsait Ceesay, former press officer at the Office of the President of the charge of false publication. The charges against fellow journalist Malik Jones were dropped after he agreed to serve as a prosecution witness in the trial of Ceesay. He was later reinstated in his job.

On July 17, the proprietor and managing editor of Today, Abdul Hamid Adiamoh, was arrested following the publication of a story about school children who skipped classes to salvage scrap metal to sell. On August 20, he was charged with publication with seditious intent and was ordered to cease publication. Adiamoh pled guilty to the charge of failure to renew his business license, and on September 17 was sentenced to a fine of 10,000 dalasi (approximately \$370) or six months in prison. The fine was paid and the business license renewed which allowed the newspaper to resume publication. The trial on the charge of publication with seditious intent was ongoing at year's end.

On August 18, U.S.-based Gambian journalist and political activist Fatou Jaw Manneh was convicted on charges of sedition and fined 250,000 dalasi (approximately \$9,260) or four years in prison. Her family and friends paid the fine. Manneh was arrested at Banjul airport in March 2007. She was held for six days (beyond the 72-hour legal limit) before being charged with four sedition-related offenses based on remarks she made during a 2005 interview with an online newspaper.

Security officials arbitrarily harassed and arrested journalists during the year. On September 9 and 10, journalist Fabakary Ceesay of Foroyaa newspaper claimed that he was asked by the inspector general of police to report to police headquarters or face severe consequences. Ceesay stated the police chief was displeased with a report published in Foroyaa on September 8 about the detention of a suspect for one month without charge.

Following his release in October 2007, journalist Yaya Dampha and members of his family were granted asylum in Sweden.

On December 30, a British missionary couple, David and Rachel Fulton, pled guilty and were sentenced to a one-year mandatory jail-term with hard labor by a magistrate court in Banjul on charges of seditious publication stemming from e-mails they sent to supporters in the UK and Canada. They were also fined 250,000 dalasi (approximately \$9,260) each or in default to serve a further 18 months in prison. The couple was arrested on November 29 for publishing "negative articles" and sending "negative letters" about the country and its government to individuals and organizations. They were in prison for the duration of the trial because they could not meet the bond set at 10 million dalasi (approximately \$370,000).

Journalist Lamin Fatty of The Independent newspaper, who in June 2007 was convicted for publishing "false news" and fined 50,000 dalasi (approximately \$1,850), went into exile early in the year. He appealed his conviction and the appeal was pending in the courts at year's end.

In some cases journalists from certain independent newspapers were denied access to state-sponsored events and press conferences due to official disapproval of their editorial stance.

During the three-week campaign period before the January local government elections, opposition parties were allotted television time slots, but coverage of opposition rallies was limited. Contrary to the code of conduct adopted by the media for election coverage, the ruling APRC party received more coverage than the opposition, including on the "no campaigning" day prior to the election.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail

or Internet chat rooms. The Freedom newspaper Web site again became accessible. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail. Although many citizens are illiterate and most did not have computers or Internet connections at home, Internet cafes were popular in urban areas.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. However, on July 28, the Inspector General of Police banned the holding of a local mask dance called "zimba" and a musical event called "fural" until further notice. The order followed the death of a seven-year-old boy during a stampede at a "zimba" performance. The four dancers were charged with murder but on October 7, the prosecution withdrew the charges against three of them. The trial of the fourth dancer, Alieu Faal, was ongoing at year's end. The eight organizers of the "zimba" were fined 1,300 dalasi (approximately \$48) each after they pled guilty to holding the event without a police permit.

#### Freedom of Peaceful Assembly and Association

The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice.

#### c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice. However, in what was widely seen as an attack on the "Shia" doctrine of Islam, President Jammeh on July 24 called on the Supreme Islamic Council, the umbrella organization for all Muslim groups, to "put its house in order" and gave it a week to "regulate" what he stated were the apparent Islamic differences in the country. On July 28, the Supreme Islamic Council issued a press release calling on media houses to halt any programs or publications that are seen to propagate the "Shia" doctrine.

#### Societal Abuses and Discrimination

There were no reports of societal abuse or discrimination based on religious affiliation, belief, or practice. Prominent societal leaders took positive steps to promote religious freedom.

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

For a more detailed discussion, see the 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, but allow for "reasonable restrictions." Restrictions were imposed on foreign travel for many persons released from detention, often because their travel documents were temporarily confiscated at the time of their arrest or soon afterwards. As a rule, all government employees were required to obtain permission from the office of the president before travelling abroad.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR), the World Food Program, and other humanitarian organizations in assisting refugees and asylum seekers with integration efforts. UNHCR coordinated government efforts with the International Organization for Migration, the Gambia Red Cross

Society and other agencies to provide protection and assistance to refugees, returning refugees, and asylum seekers.

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

#### Protection of Refugees

Neither the constitution nor the law provides 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. The government granted refugee status during the year. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. Approximately 6,200 Senegalese refugees remained in the country during the year.

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

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

#### Elections and Political Participation

On January 24, local government elections were held. The ruling APRC won the two contested mayoral seats plus 101 local council seats out of a total of 114. The opposition UDP won three seats, the National Alliance for Democracy and Development (NADD) won one seat; the National Reconciliation Party (NRP) won one seat, while the remaining eight wards were won by independent candidates. In the National Assembly elections held in January 2007, two separate opposition alliances contested with the ruling APRC, which won 42 of the 48 elected seats, and President Jammeh appointed five nominated members, including the speaker. On December 18, the APRC won a by-election for the National Assembly seat of Nianija constituency. The contest was between the APRC and the NRP.

In 2006 Alhaji Yahya Jammeh was reelected for a third term as president, winning approximately 67 percent of the vote. The main opposition political party, the UDP, challenged the election results; however, the courts upheld them.

Individuals representing political parties or running as independents could freely declare their candidacy if their nominations were approved according to the rules of the Independent Electoral Commission.

Political parties operated without restriction or government interference.

International and local observers declared the local government elections free and fair but expressed concern at low voter turnout. The presidential and National Assembly elections were declared partially free and fair with shortcomings, including underage voting, voting by non-nationals, and biased media coverage in favor of President Jammeh. There were reports of security officers demonstrating partisan support while on duty in the days before both the presidential and National Assembly elections. Opposition parties criticized these irregularities and stated that the APRC did not adhere to the code of conduct in the political memorandum of understanding brokered by the British Commonwealth in 2005.

UDP candidate in the National Assembly election Nfamara Bojang, who was arrested in January 2007, was acquitted on March 18 because of the prosecution's repeated failure to bring forward any witnesses.

There were four women in the 53-seat National Assembly; two were elected and two were nominated by the president. At year's end there were six women in the 18-member cabinet, including the vice president.

There were no statistics available on the percentage of minorities included in the legislature or the cabinet. However, President Jammeh and many members of his administration were from the previously marginalized minority Jola ethnic group.

#### Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively although some officials accused of corruption were prosecuted.

The World Bank's Worldwide Governance Indicators reflected that corruption was a serious problem, although there were some government efforts to curb it during the year. The president often spoke against corruption, and leading political and administrative figures faced harsh sentences on charges of corruption and wrongdoing. In March 2007 the National Assembly adopted a code of conduct in an effort to allow for greater accountability and transparency in the legislature.

On August 7, the Managing Director of Gambia International Airlines (GIA), Lamin Sanyang, was arrested over allegations of mismanagement of funds of the state-owned company. He was detained until August 15 and then released unconditionally.

Public officials were not subject to financial disclosure laws, and no specific government agency was responsible for combating corruption.

The constitution and law do not provide for public access to government information. Under the Official Secrets Act, civil servants are not allowed to divulge information about their departments or to speak to the press without prior clearance from their department heads.

#### 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. Some members of domestic human rights groups reportedly practiced self-censorship in matters related to the government. Several groups expressed concern over the situation of detainees held incommunicado, but the government did not respond.

The government allowed visits during the year by the UN and other international governmental organizations, such as ECOWAS and the Commonwealth Secretariat, but offered no response to reports issued after the visits.

The Office of the Ombudsman operated a National Human Rights Unit (NHRU) to promote and protect human rights and to support vulnerable groups. The office was established by the government and receives government funding. During the year the unit's reports focused on social and economic issues, such as gender, welfare, and child labor; however, the reports were not critical of the government.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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

#### Women

The law prohibits rape, and the government enforced the law effectively, although rape remained a widespread problem. The penalty for rape of an adult is life in prison, and the maximum penalty for attempted rape is seven years' imprisonment. The law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it.

Domestic violence, including spousal abuse, was a widespread problem; however, it was underreported due to the stigma surrounding such violence. Police considered reported 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.

Prostitution is illegal; however, it was a problem particularly in the tourist areas. Unlike in the previous year, there were no reports that the government expelled foreigners engaged in prostitution. Suspected prostitutes were arrested in periodic raids; those who pled guilty to charges of being "rogues and vagabonds" were sentenced to fines or imprisonment for seven to 30 days. The Tourism Offences Act deals with tourism-related offenses, including sex tourism, which was reportedly increasing. The act prohibits child prostitution, trafficking, and pornography.

There are no laws against sexual harassment, although it was reportedly 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, access to credit, or owning and/or managing a business; 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 males. The concerned 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, polygyny was practiced. Women in polygynous unions had property and other rights arising from the marriage. They also had the option to divorce, but no legal right to disapprove or be notified in advance of subsequent marriages. The Women's Bureau, under the Office of the Vice President, oversees programs to ensure the legal rights of women. Active women's rights groups existed.

During the year the National Reproductive and Child Health Unit of the Department of State for Health and Social Welfare continued to implement a reproductive health campaign launched in 2007. The campaign, which was funded by the World Health Organization, was designed to encourage men to become involved with sexual and reproductive health issues. In July 2007 the president declared that all maternal health care services would be provided free of charge in government-run hospitals, a practice that is in effect.

#### Children

The government was committed to children's welfare; however, budgetary constraints limited resources available to support education, health, and social services.

Not all births were registered. However, in order to have access to health care and treatment at public health centers, children must possess a clinic card, which is routinely obtainable.

The constitution and law mandate free, compulsory primary education from age six to 12, but the inadequate infrastructure prevented effective compulsory education, and children paid fees to attend school. 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 "madrassas." Girls constituted approximately 51 percent of primary school students and an estimated one-third of high school students. The enrollment of girls was low in rural areas, however, where a combination of poverty and cultural factors influenced parents' decisions not to send girls to school. As part of the government's ongoing initiative to get girls in school, the government continued a countrywide program to pay basic school fees for all girls. Nevertheless, in two urban regions, girls still were required to pay for books, school fund contributions, and exam fees.

The law protects and promotes the welfare of children, and curbs abuses against children, including trafficking in persons. In 2006 the first of five regional children's courts was established. The court has jurisdiction to hear all adoption, custody, maintenance, parentage, special, and most criminal cases affecting children.

The authorities generally enforced laws when cases of child abuse or mistreatment were brought to their attention. There was no societal pattern of abuse against children. Carnal knowledge of a girl under the age of 16 is a felony except in the case of marriage, which can be as early as 12 years of age. Incest also is illegal. Serious cases of abuse and violence against children were subject to criminal penalties.

On August 17, a 61-year-old New Zealand national, Anthony Michael Dobson, was arrested and charged with child pornography and defilement of a girl under the age of 16. A Gambian man, Mustapha Drammeh, named as Dobson's accomplice, was charged with procuring a young girl for him. Both pleaded not guilty. Their application for bail was turned down by the magistrate and they were remanded in custody. The trial was ongoing at year's end.

On November 20, a German national, Peter Paul Hornberger, was arrested for "indecent assault of a minor" of an 11-year-old boy in the tourism development area. He pled guilty and could face up to 14 years in prison. He was awaiting sentence at year's end.

The law does not prohibit female genital mutilation (FGM) and the practice remained widespread. Between 60 and 90 percent of women have undergone FGM, and seven of the nine major ethnic groups reportedly practiced it at ages varying from shortly after birth until age 16. FGM was less frequent among the educated and urban groups. Some religious leaders publicly defended the practice. There were unconfirmed reports of incidences of health-related complications, including deaths, associated with FGM; however, no accurate statistics were available. Several NGOs conducted public education programs to discourage the practice and spoke out against FGM in the media.

During the year at least 44 FGM practitioners abandoned the practice following a series of community sensitization campaigns which also provide entrepreneurial projects for the practitioners. The government supported efforts to eradicate FGM and discouraged it through health education. During the year the National Assembly Select Committee on Women and Children continued its campaign against FGM and other harmful traditional practices affecting women and children.

Child prostitution (children under 18 years of age) exists in some of the brothels. Some child prostitution victims stated they worked to support their families or because they were orphans. Some NGOs also believe that tourists living in remote guesthouses and motels may be involved in the sexual exploitation of children. Security forces in the tourism development area are required to turn away all minors who approach the main resort areas without a genuine reason.

#### Trafficking in Persons

The law prohibits all forms of trafficking in persons; however, persons were trafficked to, from, through, and within the country. The government considered trafficking to be a serious problem. The Children's Act prohibits trafficking

in children and the 2007 Trafficking in Persons Act prohibits all forms of trafficking.

The penalty for trafficking in children under the age of 18 is life in prison and a substantial monetary fine. Enforcement of the Children's Act is the responsibility of the various security services. The Tourism Security Unit, a unit of the national army created specifically to enhance security in the tourism sector, is responsible for enforcement of the Tourism Offences Act which calls for keeping minors out of resort areas. The minimum prison term for trafficking an adult is 15 years and a substantial monetary fine may also be imposed.

On July 1, the magistrate's court in Banjul convicted Sheikh Jobe of child trafficking and sentenced him to two years imprisonment with hard labor. Jobe allegedly kidnapped two children, Telma Bangura and Mariama Jallow, by enticing them with biscuits and then took custody of them.

There were reports during the year that children were trafficked for commercial sexual exploitation. In October a Nigerian girl approximately 16 years old told representatives of the NGO Child Protection Alliance (CPA) and the Child Welfare Unit of the Gambia Police Force that she was a victim of trafficking. She stated that her uncle brought her and her sister from Nigeria on the pretext of sending them to school. Instead, he asked them to run his video shop and they fled when he attempted to rape them. The girl later disappeared while the police were preparing their case to arrest and prosecute the suspected trafficker.

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

While the government had no established victim care and health facilities for trafficked persons, it provided temporary shelter and access to medical and psychological services to reported victims of trafficking.

The government's multi-agency trafficking in persons taskforce, which also included representatives from the UN Children's Fund, the National Assembly, and the CPA, met twice during the year and on December 22 finalized the National Action Plan for Combating Trafficking in Persons.

The Trafficking in Persons Act provides for a national agency against trafficking to be established; however, it was not formed by year's end. A dedicated officer for trafficking issues continued to operate at the Department of State for Justice. NGOs were active in raising awareness about trafficking.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

Although the constitution protects persons with disabilities against exploitation and discrimination, no government agency is directly responsible for protecting persons with disabilities. The Department of State for Health and Social Welfare dealt mainly with supplying some persons with disabilities with wheelchairs received from international donors. There is no legal discrimination against persons with physical disabilities in employment, education, or other state services; however, there was some societal discrimination. 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 were physically capable. There were no laws to ensure access to buildings for persons with disabilities, and very few buildings in the country were accessible to them.

During the year the government removed many beggars with disabilities from the streets in an effort to end the problem of street begging, which it viewed as a public nuisance. On September 26, police in Banjul arrested 24 Gambian and Senegalese beggars and charged them with "common nuisance and obstruction on public highways."

The issue of the rights of persons with disabilities attracted press coverage throughout the year, and several NGOs sought to improve awareness of these rights, including encouraging the participation of persons with disabilities in sports and physical activities. The NHRU specifically sought to promote the rights of women with disabilities. Persons with disabilities were given priority access to polling booths on voting day.

#### Other Societal Abuses and Discrimination

There was evidence of societal discrimination against persons infected with HIV/AIDS. Stigma and discrimination hindered disclosure and led to rejection from partners and relatives. The government took a multisectoral approach to fighting HIV/AIDS through its national strategic plan, which provides for care, treatment, and support to persons living with, or affected by HIV/AIDS, and the protection of the rights of those at risk of infection. In April 2007 the National AIDS Secretariat collaborated with The Gambia Chamber of Commerce and Industry to develop a business coalition response to HIV/AIDS using workplace policies to destigmatize it and allow workers to feel comfortable seeking information. Public discourse about HIV/AIDS was ongoing during the year as President Jammeh continued his controversial herbal treatment program for the virus. Throughout the year the secretary of state for health urged persons to undergo voluntary HIV/AIDS counseling and testing.

There are no laws banning sexual relations between men, but there is societal discrimination against homosexuality, which remained a social taboo.

On March 28, President Yahya Jammeh, speaking at the National Assembly, strongly condemned homosexual marriages and stated they would never be allowed. On May 15, Jammeh ordered all homosexuals to leave the country within 24 hours. He described homosexuality as a criminal practice and told the security services to arrest homosexuals and close down motels and hotels hosting them.

On May 30, two Spanish men were arrested and detained at Kotu Police Station over allegations that they tried to procure underage boys for sex. The men were not charged, were released on June 3, and left the country immediately. However, the government announced that they had been arrested on charges of homosexuality rather than pedophilia.

#### Section 6 Worker Rights

##### The Right of Association

In September 2007 the National Assembly passed a revised Labor Act, which incorporates principles set out in various International Labor Organization (ILO) Conventions that deal with the abolition of forced labor, the minimum age for employment, the elimination of the worst forms of child labor, the right to organize and collective bargaining, and discrimination in employment and occupation. The act applies to all workers, including foreign or migrant workers, and specifies that workers are free to form associations, including trade unions. Workers exercised this right in practice. However, the act specifically prohibits military personnel and police officers, as well as other civil service employees, from forming unions. Unions must register to be recognized, and there were no cases where registration was denied to a union that applied for it. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active.

The law allows for the right to strike but places restrictions by requiring unions to give the commissioner of labor 14 days' written notice before beginning an industrial action (28 days for essential services); no strikes occurred during the year. In practice the government interfered with unions' right to strike. The law specifically prohibits military personnel, police officers, and other civil service employees, from striking. Police and military personnel had access to a complaints unit, and civil servants could take their complaints to the Public Service Commission or

the Personnel Management Office.

b. The Right to Organize and Bargain Collectively

The law permits unions to conduct their activities without interference. 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. Most collective agreements are registered with the Department of Labor and remain valid for a period of three years before being renewed. The Labor Act also sets minimum contract standards for hiring, training, and terms of employment and provides that contracts may not prohibit union membership.

An employer may apply to a court for an injunction to prohibit industrial action that is deemed 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. The law prohibits retribution against strikers who comply with the law regulating strikes.

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

There is a government-established export processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. There are no special laws or exemption from regular labor laws in the EPZ.

c. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that women and children were trafficked for forced commercial sexual exploitation.

d. Prohibition of Child Labor and Minimum Age for Employment

Child labor was a problem, although the constitution prohibits economic exploitation of children less than 16 years of age, and the Children's Act prohibits exploitative labor or hazardous employment of children under the age of 18. The act also sets the minimum age of 16 years for light work and 12 years for apprenticeships in the informal sector. 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, as child labor in informal sectors is difficult to regulate and laws implicitly apply only to the formal sector. 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 level of child prostitution. Other sectors where children between the ages of 14 and 17 were known to work include carpentry, sewing, masonry, plumbing, tailoring, and auto mechanics. In the rural areas, children were engaged in light work on family farms during the rainy season.

The Department of Labor was responsible for enforcing child labor laws and conventions on the worst forms of child labor. 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 Tourism Offences Act incorporates the ILO provisions outlawing child prostitution and pornography.

e. Acceptable Conditions of Work

Minimum wages and working hours are established by law through six joint industrial councils, composed of representatives from labor, management, and the government. The lowest minimum wage according to law was 19.55 dalasi (approximately \$0.72) per day for unskilled labor, but in practice the minimum wage was 50 dalasi (approximately \$1.85) per day. 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 in the formal economic sector, although most such laborers were paid above the minimum wage. Minimum wage laws covered foreign and migrant workers. 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 six 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. There was no exception for foreign or migrant workers.

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 authorities did not effectively enforce this right.

The law protects foreign workers employed by the government; however, it only provides protection for privately employed foreigners if they have a currently valid work permit. On April 3, the National Assembly passed an amendment to the Payroll Tax Act, which requires employers not to hire non-Gambians in excess of 20 per cent of their workforce except in the specialized professional category. The move was designed to encourage employers to train and employ more local citizens.