

The Gambia 2023 Human Rights Report

Executive Summary

There were no significant changes in the human rights situation in The Gambia during the year.

Significant human rights issues included credible reports of: harsh and life-threatening prison conditions; serious government corruption; extensive gender-based violence, including domestic or intimate partner violence, sexual violence, child, early, and forced marriage, female genital mutilation/cutting, and other forms of such violence; and laws criminalizing consensual same-sex sexual conduct between adults, although rarely enforced.

The government took credible steps to identify and punish officials who may have committed human rights abuses.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings, including extrajudicial killings, during the year.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

Families of individuals detained during the Jammeh regime continued to demand information on their missing relatives and ask that those responsible for abuses be held accountable.

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

The constitution and the law prohibited such practices, and unlike in 2022, there were no credible reports government officials employed them. Nevertheless, impunity was a problem in the security forces for abuses committed during the Jammeh era.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening due to food shortages, gross overcrowding, lack of medical care, and poor sanitary conditions.

Abusive Physical Conditions: Gross overcrowding was a problem in some facilities, particularly in the remand wing of the Mile 2 Prison in Banjul, where police held detainees pending trial. Food, potable water, sanitation, heating, ventilation, and medical care were inadequate.

Administration: Authorities conducted investigations of credible allegations of mistreatment.

Independent Monitoring: The government granted unrestricted access to all prisons to the Office of the Ombudsman and local and international nongovernmental organizations.

d. Arbitrary Arrest or Detention

The constitution and law prohibited arbitrary arrest and detention and provided for the right of any person to challenge the lawfulness of their arrest or detention in court. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

The law required a detainee be charged or released within 72 hours. There was a functioning bail system. In some cases, officials did not allow detainees prompt access to a lawyer. The judiciary provided lawyers at public expense only to indigent persons charged with capital crimes, such as murder, for which the death penalty could be imposed.

e. Denial of Fair Public Trial

The constitution and law provided for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The law provided for the right to a fair and public trial, and the judiciary generally enforced this right. Officials did not always promptly inform defendants of the charges against them. Case backlogs hampered the right to a timely trial.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

f. Transnational Repression

Not applicable.

g. Property Seizure and Restitution

Not applicable.

h. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibited such actions, and there were no reports the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution and law provided for freedom of expression, including for members of the press and other media, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for media members.

Freedom of Expression: On October 9, authorities arrested prominent human rights activist Madi Jobarteh, reportedly for antigovernment social media statements. On October 11, authorities released Jobarteh on bail. On November 9, police charged him with “seditious intention, incitement to violence, and false publication and broadcasting.” At year’s end, Jobarteh remained free on bail.

Violence and Harassment: In October, at political rallies during a national tour, President Adama Barrow criticized media organizations he believed opposed his party and told audiences he planned to detain those who expressed opposition to the government and warned of “crackdowns” on free speech. Following this, the president’s office issued a statement that appeared to walk back Barrow’s rhetoric, explaining he was merely calling for civility and his words were taken out of context. The statement called

for “all Gambians” to uphold positive democratic values and offered reassurances press freedom would prevail, although with the proviso that “troublemakers,” “bullies,” and persons engaging in “hate speech” would be held accountable.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content.

b. Freedoms of Peaceful Assembly and Association

The law provided for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The law provided for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these related rights.

In-country Movement: Police and immigration personnel frequently set up security checkpoints. Individuals found to be without proper identification were subject to detention or fines or forced to pay bribes.

e. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern.

Access to Asylum: The law provided for the granting of asylum or refugee status, and the government had a system for providing protection to refugees.

Durable Solutions: The country hosted approximately 4,000 Senegalese refugees. The government made slow progress towards naturalization or permanent residency status for these refugees.

Section 3. Freedom to Participate in the Political Process

The law provided citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Abuses or Irregularities in Recent Elections: National elections were widely reported to be fair and largely free of abuses and irregularities, although attempts to buy and suppress votes were common practices. International and domestic observers of the 2021 presidential elections noted election officials struggled at times to provide adequate crowd control, sufficient electricity to tally results, and clear communication concerning the counting process.

Participation of Women and Members of Marginalized or Vulnerable

Groups: Political parties did not encourage women to run for office and relegated them to supporting roles in political campaigns and party offices. Cultural and societal barriers, particularly home and family responsibilities, including childcare, significantly restricted women's participation. Religious and societal views also restricted lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) persons from openly participating in politics.

Section 4. Corruption in Government

The law provided criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were numerous reports of government corruption.

Corruption: There were numerous allegations of corruption made by media and civil society organizations, including misuse of public funds by

government officials in their respective institutions. On March 8, a court convicted a former permanent secretary at the Ministry of Fisheries and Water Resources of accepting bribes from a Chinese fishing company. An investigative reporter exposed the bribery. On October 11, authorities charged three senior officials from the Ministry of Health with official corruption, economic crimes, theft, and forgery. On October 13, a local municipality put 14 staff on administrative leave pending investigation into allegations of mismanagement of funds and theft of tax revenue. Additionally, on October 31, the municipality recommended immediate removal of the municipal CEO and director of finance, accusing the two, and the former chairman, of serious financial misdealing.

For additional information concerning corruption in the country, please see the Department of State's *Investment Climate Statement* for the country and the Department of State's *International Narcotics Control Strategy Report*, which includes information on financial crimes.

Section 5. Governmental Posture Towards International and Nongovernmental Monitoring and Investigation of Alleged Abuses of Human Rights

A number of domestic and international human rights groups generally operated without government restriction to monitor or investigate human

rights conditions or cases and publish their findings. Government officials were often cooperative and responsive to these groups.

Government Human Rights Bodies: The Office of the Ombudsman operated a National Human Rights Unit (NHRU) with a mandate to promote and protect human rights and support vulnerable groups. The NHRU addressed complaints regarding unlawful dismissal, termination of employment, unfair treatment, and illegal arrest and detention. Observers considered the NHRU to be effective and independent.

The National Human Rights Commission was an independent government body whose mission was to promote, protect, and improve the rule of law, human rights standards, and fundamental human rights and freedoms through law, policy, education, and partnership. Observers considered it to be generally effective and independent.

The Ministry of Justice implemented recommendations from the Truth, Reconciliation, and Reparations Commission regarding human rights abuses of the Jammeh era, and with civil society groups began to develop a legal framework to hold abusers accountable. In March, the National Assembly passed the Prohibition of Torture Act, and in an extraordinary session in November, passed the Victims Reparations Act and the Ban from Public Office Act.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalized rape without reference to gender and criminalized domestic violence. The penalty for rape was life imprisonment. The maximum penalty for attempted rape was seven years' imprisonment. The penalty for domestic violence was two years' imprisonment, a substantial fine, or both. In addition, a court could order compensation for the survivors of domestic violence. The government did not enforce these provisions effectively.

Rape and domestic violence were widespread problems that often went unreported due to survivors' fear of reprisal, unequal power relationships, stigma, discrimination, and pressure from family and friends not to report abuses.

The Ministry of Women's Affairs, Children, and Social Welfare operated a survivors' shelter and cooperated with UN agencies and civil society organizations to address gender-based violence, including a hotline and one-stop centers at various hospitals across the country for immediate medical attention for survivors.

Female Genital Mutilation/Cutting (FGM/C): The law banned FGM/C of girls and women. Survivors and witnesses rarely reported abuses because they were uncomfortable implicating family or community members.

According to United Nations Population Fund (UNFPA), 75 percent of girls and women between ages 15 and 49 had undergone some form of FGM/C as of 2020.

In August, authorities prosecuted three women for FGM/C abuses of young girls ages four months to one year. A court fined the women 15,000 dalasi (\$247). A prominent Islamic religious leader paid the fines for them, claiming the fight against FGM/C was against Islam and he would continue to defend the practice. Civil society organizations and the UNFPA country office increased engagements and public awareness campaigns on the harmful effects of the practice.

Other Forms of Gender-based Violence or Harassment: Sexual harassment was widespread but not commonly reported due to discrimination, social stigma, and unwillingness to challenge the offenders. The law prohibited sexual harassment and stipulated a one-year mandatory prison sentence for abuses. Survivors of sexual harassment in the workplace had to resign to pursue redress through court action, which was limited to compensation.

Discrimination: The constitution and law provided for equality of all persons, including gender equality. The law prohibited discrimination in employment, access to credit, owning and managing a business, housing, or education. Authorities generally enforced the law. Marriage, divorce, child custody and inheritance were guided by Islamic law for Muslims; Islamic law

did not provide the same legal status and rights for women. The government enforced Islamic law effectively.

Employment in the formal sector was open to women at the same salary rates as men; however, societal discrimination continued, and women generally worked in such low-wage pursuits as food vending and subsistence farming.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Barriers impeding access to sexual and reproductive health services included religious reasons, cultural taboos, limited formal education with high illiteracy rates, low wages, and poor infrastructure, particularly in more rural areas of the country. Access to both routine and emergency health care, including access to emergency contraception as part of family planning method mix, was limited due to lack of capacity in all sectors of the health-care field.

The government attempted to provide access to sexual and reproductive health services for survivors of sexual violence, but residents in rural areas had very limited access to basic health care. Emergency contraception was available as part of the clinical management of rape cases, but limited to urban areas, with inconsistent supplies at pharmacies and medical centers.

According to the World Health Organization (WHO), the country's maternal mortality rate in 2020 was 458 per 100,000 live births. The WHO identified hemorrhage, anemia, early pregnancy, and obstructed labor as the main causes of maternal mortality. FGM/C negatively impacted reproductive and maternal morbidity.

Girls often missed school if they were unable to afford menstruation products. Girls who became pregnant while in school were unlikely to return after giving birth.

Systemic Racial or Ethnic Violence and Discrimination

The law prohibited specific types of racial and ethnic discrimination. Political candidates were forbidden from stoking tribal or ethnic tensions. The government did not effectively administer these laws.

Children

Education: Girls comprised approximately one-half of primary school students but only one-third of high school students, often due to a societal preference for boys' education.

Child Abuse: There were laws against child abuse. The government generally enforced these laws effectively.

Child, Early, and Forced Marriage: The legal minimum age for marriage was 18. Although government campaigns in several areas of the country,

particularly in remote villages, sought to create awareness of the law, there were no reports of the government enforcing it.

Sexual Exploitation of Children: The law prohibited commercial sexual exploitation, sale, grooming, or using children for commercial sexual exploitation, including child sex trafficking, and practices related to child pornography. Authorities sought to enforce the law but did not do so effectively. The minimum age for consensual sex was 18.

Antisemitism

There was no known Jewish community, and there were no reports of antisemitic incidents.

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at <https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: The law criminalized consensual same-sex sexual conduct between adults by punishing “aggravated homosexuality,” acts “against the

order of nature,” and “gross indecency.” The law also punished so-called cross-dressing. Authorities did not enforce these provisions.

Violence and Harassment: There were no reports police or other government agents did not incite, perpetrate, condone, or tolerate violence or harassment against LGBTQI+ persons or those reporting such abuses. Human rights activists reported LGBTQI+ persons feared harassment, attacks, and intimidation by political and religious leaders if they disclosed their sexual orientation or gender identity.

Discrimination: The law did not prohibit discrimination by state or nonstate actors based on sexual orientation, gender identity or expression, or sex characteristics. The law did not explicitly recognize LGBTQI+ couples or their families. LGBTQI+ persons could face societal discrimination if they disclosed their status. Some LGBTQI+ persons reported stigmatization and some health care workers’ refusal to honor privacy resulted in diminished access to HIV and AIDS care. LGBTQI+ persons reported discrimination in employment.

Availability of Legal Gender Recognition: Legal gender recognition was not available.

Involuntary or Coercive Medical or Psychological Practices: There were no reports of the practice of so-called conversion therapy. Medically unnecessary and irreversible “normalization” surgeries were not performed on children or on nonconsenting adult intersex persons.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly:

There were no legal restrictions on individuals speaking or media reporting on LGBTQI+ matters or on LGBTQI+ organizations registering or convening events, but LGBTQI+ individuals did not engage in public messaging, public or private meetings, or organizational efforts due to heavy social pressure and the risk of violence and harassment.

Persons with Disabilities

Persons with disabilities did not have access to education, employment, health services, public buildings, and transportation on an equal basis with others. The constitution prohibited discrimination against or exploitation of persons with disabilities, although it did not specify what types of access were protected. The government generally enforced the law effectively. Government information and communication on disability concerns were not always provided in accessible formats.

Persons with disabilities experienced discrimination in employment.

Children with disabilities attended school through secondary education at a lower rate than other children.

Other Societal Violence and Discrimination

Although there were no documented incidents of HIV-related stigma and discrimination in employment, housing, or access to education or health

care, stigma and discrimination existed. Societal discrimination against persons with HIV and AIDS and fear of rejection by partners and relatives sometimes hindered identification and treatment. The government response was unclear.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provided that workers, except for civil servants, domestic workers, court officers, and certain other categories of workers, were free to form and join independent unions, bargain collectively, and conduct legal strikes. The law did not prohibit antiunion discrimination. In particular, a broad range of essential service employees, including in the military, police, health, ambulance, prison, water, electricity, and radio and telecommunication sectors, were prohibited from forming unions or going on strike.

Additionally, the law authorized the minister responsible for labor matters to exclude any other category of workers from the protection of the law.

Unions had to register to be recognized. The law required a minimum membership of 50 workers for the registration of a trade union, a threshold few workplaces could meet. In 2021, the International Labor Organization (ILO) noted the processes for recognizing unions as having the status to bargain, and for organizing secret ballot union elections, were not consistent

with the country's obligations under relevant ILO conventions. The ILO also noted the categories of workers deprived of the right to form unions under the law were exceedingly broad.

The law also stated the registrar of unions had to give the commissioner of labor written notice 14 days before beginning an industrial action (28 days for actions involving essential services). An employer could apply for a court injunction to prohibit industrial action deemed to be in pursuit of a political objective. The court also could forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes.

The government did not consistently enforce the laws governing freedom of association, collective bargaining, and the right to strike. Penalties for violations of freedom of association, collective bargaining, and the right to strike were commensurate with those for analogous violations such as civil rights offenses but were rarely applied.

Although trade unions were small and fragmented, collective bargaining occurred. Union members negotiated without government interference but often lacked experience, organization, and professionalism and turned to the government for assistance.

b. Prohibition of Forced or Compulsory Labor

See the Department of State's annual *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

See the Department of Labor's *Findings on the Worst Forms of Child Labor* <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/>.

d. Discrimination (see section 6)

e. Acceptable Conditions of Work

Wage and Hour Laws: The law provided minimum wages in six sectors: commerce, artisans, transport, port operations, agriculture, and fisheries, covering 20 percent of workers. The minimum wage was less than the national poverty level.

The basic legal workweek was 40 hours but could be extended up to 48 hours including overtime work. Alleged violations of wage, hour, and overtime laws were common in the informal sector.

Occupational Safety and Health: Occupational safety and health (OSH) standards were appropriate for the main industries in the country. Government OSH experts did not proactively identify unsafe conditions. The law did not prevent possible termination for workers who removed themselves from unsafe conditions. Violations of health and safety standards were common in the service, construction, agricultural, and domestic labor sectors.

Wage, Hour, and OSH Enforcement: The Department of Labour enforced minimum wage, overtime, and OSH regulations. The government did not enforce the law. Penalties were not commensurate with those for similar violations such as fraud or negligence, and penalties were rarely applied. The number of inspectors was insufficient to enforce compliance, although inspectors did have the right to make unannounced inspections and initiate sanctions. The government did not apply labor laws in the large informal sector, which accounted for approximately 66 percent of workers.