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2011 Country Reports on Human Rights Practices - The Gambia

EXECUTIVE SUMMARY

The Gambia is a multiparty democratic republic. On November 25, voters reelected President Alhaji Yahya Jammeh to a fourth term in a peaceful, orderly election that was neither free nor fair. President Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC), continued to dominate the political landscape. There were instances in which elements of the security forces acted independently of civilian control.

The most serious human rights problem in the country was the government's harassment and abuse of its critics, which resulted in a muzzled press and the death, torture, arrest and detention, and sometimes enforced disappearance, of citizens.

Other human rights problems included poor prison conditions; denial of due process, prolonged pretrial detention, and incommunicado detention; restrictions on privacy and freedoms of speech, press, and assembly; violence against women and girls, including female genital mutilation; forced child marriage; trafficking in persons; child prostitution; discrimination against lesbian, gay, bisexual, and transgender (LGBT) individuals; and child labor.

The government sometimes took steps to prosecute or punish officials who committed abuses; however, impunity was a problem.

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

a. Arbitrary or Unlawful Deprivation of Life

There were several reports that the government or its agents committed arbitrary or unlawful killings.

For example, on January 28, in the village of Numuyel, Upper River Region, officers of the local detachment of the Police Intervention Unit (PIU) tied Dembo Sibi to a tree and beat him to death. The *Daily News*, a local newspaper, reported that Sibi was accused of stealing a motorbike and quoted his father as saying that police officers demanded 3,000 dalasi (\$105) for his release, a sum Sibi was unable to pay. Authorities arrested five PIU officers in connection with the case. On May 30, a judge convicted two of the five – Demba and Modou Colley – and sentenced them to death; he acquitted the remaining three officers.

On April 15, Cherno Alieu Suwareh of Bakau Sanchaba, West Coast Region, died following a confrontation with five officers of the National Drug Enforcement Agency (NDEA). On

March 25, the officers raided Suwareh's compound, reportedly found cannabis in his room, and struck Suwareh's head against a wall, resulting in injuries to the forehead, according to Yerro Mballow, the police public relations officer. Suwareh was admitted to the Royal Victoria Teaching Hospital in Banjul where he died 11 days later. Suwareh's niece, Isatou Jallow, claimed she was present during the beating and testified in court on July 12 that her uncle was unable to climb into the vehicle that took him away due to his injuries. On June 13, the court released three of the five officers arrested in connection with the incident for lack of evidence. On December 5, a judge acquitted the remaining two – Eku P. L. Grant and Ebou Lowe – and discharged them. The magistrate said there was no direct evidence that Suwareh died as a result of acts perpetrated by the accused persons, noting that Suwareh's relatives had refused an autopsy.

b. Disappearance

There were no reports of politically motivated disappearances.

During the year the government provided conflicting accounts of the whereabouts of missing journalist "Chief" Ebrima Manneh, who was arrested by security officers in 2006 and subsequently disappeared. During a March 16 press conference, President Jammeh said that his government had nothing to do with "the death of Chief Manneh," the first admission by a government official that Manneh had died. During an October 6 interview with the *Daily News*, Minister of Justice Edward Gomez claimed Manneh "was alive and was somewhere to be disclosed later." On October 19, during a meeting in Banjul with officials of the Federation of African Journalists, the justice minister said that Manneh had "stage-managed his disappearance for mischievous reasons." He went on to say that Manneh had left the country and that the government had evidence from Interpol that he went to the United States. Manneh's family publicly denied the claim. In October Reporters Without Borders called on Gomez to quickly produce evidence of his claim that Manneh was still alive out of respect for Manneh, his family, and colleagues, as well as those who had been waiting for news of him for more than five years. In December the government agreed to an independent, outside investigation into Manneh's death.

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 tortured, beat, and mistreated persons in custody (see also section 1.a.).

On January 2, villagers in Foni Kampasa witnessed two members of the Gambia Armed Forces (GAF) assaulting two timber dealers and their drivers, according to *Foroyaa* newspaper. The victims – Habib Babu, Gibi Sonko, Pa Ousman Ceesay, Ansumana Kinteh and Lamin Kassama – required medical attention and were taken to Bwiam Hospital by officers from Kalagi police station. The victims later told a *Foroyaa* reporter that the army officers stole their money and cell phones.

On December 16, officers of the NDEA arrested Alpha Omar Jobe on suspicion of cannabis trafficking. According to the *Daily News* newspaper, Jobe was subsequently tortured and released; he died six days later as a result of his injuries. An angry mob carried Jobe's body to Manjai police station, which they attacked with stones and sticks. Police arrested 21 youths in connection with the attack on the station and charged them with causing willful damage to property and taking action causing a breach of peace. Their trial continued at year's end. No action was taken against the officers who allegedly tortured Jobe.

During the year there were reports that Venezuelan national George Sanchez, who was one of nine men convicted of drug trafficking following the May 2010 seizure of more than two tons of cocaine in the village of Bonto, was subsequently tortured during detention. During his December 2010 trial, Sanchez alleged that security officers put a plastic bag over his head and beat him, burned his waist and genitals with cigarettes, and forcefully removed one of his toenails. Police denied the allegations.

There were no developments in the March 2010 alleged torture by members of the National Intelligence Agency (NIA) of Ensa Badjie, former inspector general of police. Badjie testified during his 2010 trial for corruption, abuse of office, drug crimes, and other offenses that NIA members severely beat him after NIA operative Omar Cham

covered his head with a black plastic bag. Badjie showed the scars on his mouth to the courtroom.

The Indemnity Act, which allows the president to grant amnesty to any person, including security force members, accused of misconduct during unauthorized gatherings, continued to deter victims from seeking redress for torture during the country's 1994-96 military rule. The army requires victims to file formal complaints with the courts regarding alleged torture that occurred at other times. During the year there were no known prosecutions in civil or military courts of security force members accused of mistreating individuals.

Prison and Detention Center Conditions

Prison conditions were poor with overcrowded, damp, and poorly ventilated cells. Inmates complained of poor sanitation and food. Inmates occasionally slept on the floor. Detainees were allowed to receive food from outside prior to conviction, but not afterwards. Medical facilities in prisons were poor, and sick inmates were taken to the Royal Victoria Teaching Hospital in Banjul or nearby health centers for examination and treatment. Water supply was adequate, but lighting in some cells was poor. During the summer months temperatures were extremely high, and there were no ceiling fans or other measures to reduce heat. During his October 13 treason trial, former information minister Amadou Janneh complained in court that the roof of his cell at Jeshwang Prison leaked (see section 1.e.).

At year's end there were approximately 1,000 inmates in the country's prisons, more than double the intended capacity.

In late October inmates in the security wing of Mile 2 Central Prison went on a hunger strike to protest overcrowding, poor hygienic conditions, poor diet, restrictions on the number of visits by family members, failure by prison authorities to comply with medical recommendations from doctors, and denial of access to television and radio. Prison authorities denied any hunger strike occurred.

Pretrial detainees occasionally were held with convicted prisoners.

Prisoners generally had access to visitors, although there were occasional reports of lawyers and family members being denied access to detainees at Mile 2 Central Prison. Prisoners were permitted religious observance. Prisoners and detainees could transmit complaints to judicial authorities through their lawyer, if they could afford one, or relatives.

Authorities sometimes investigated credible allegations of inhumane conditions. A Prisons Visiting Committee, which includes representatives of several government agencies, is empowered to monitor detention center conditions. Ousman Sonko, the minister of interior, claimed that the committee visited the prison weekly and submitted reports on substandard conditions. Claims of weekly committee visits could not be verified.

The Office of the Ombudsman can investigate all complaints brought before it, including bail conditions, pretrial detention, and confinement of juvenile offenders. However, it cannot negotiate alternatives for detainees or convicts. The Office of the Ombudsman did not publish findings of any investigations it conducted during the year.

The government did not permit the International Committee of the Red Cross or the media access to monitor prison conditions during the year.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The GAF are responsible for external defense and report to the minister of defense, a position held by the president. The police, under the interior minister, are responsible for public security. The NIA, which reports directly to the president, is responsible for

protecting state security, collecting intelligence, and conducting covert investigations. The NIA is not authorized to investigate police abuses but often assumed police functions, such as detaining and questioning criminal suspects. During the year the NDEA, which was initially mandated to investigate narcotic crimes, was given sweeping powers to protect state security, largely marginalizing the NIA.

Security force members were frequently corrupt and ineffective. Impunity was a problem, and police sometimes defied court orders.

For example, on June 24, Mansa Bah, who was acquitted by a magistrate in Banjul, was rearrested and returned to prison after the prosecutor informed the court that he was "going to appeal" the acquittal. Bah was charged with drug trafficking and conspiracy, but the court upheld the no-case-to-answer submission filed by his lawyer and ordered his release. Bah remained in prison pending appeal at year's end.

The police human rights and complaints unit receives and addresses complaints of human rights abuses committed by police officers from both civilians and other police officers; however, no complaints were filed during the year.

Arrest Procedures and Treatment While in 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 to 72 hours, the legal limit after which detainees must be charged or released; however, there were numerous instances of detention surpassing the 72-hour limit. Detainees generally were not informed promptly of charges against them. There was a functioning bail system; however, prosecutors often opposed applications for bail for detainees charged with misdemeanors and ordered lengthy adjournments to allow additional time to prepare their cases. Judges and magistrates sometimes set bail bonds at unreasonably high amounts. The courts occasionally released accused offenders on bail only to have police or other law enforcement personnel rearrest them as they were leaving the court, sometimes to provide the prosecution more time to prepare cases. Detainees were not allowed prompt access to a lawyer or family members, although convicted prisoners were generally permitted to meet privately with an attorney. Indigent persons accused of murder or manslaughter were provided lawyers at public expense.

Military decrees enacted prior to the adoption of the constitution give the NIA and the interior minister broad powers to detain individuals indefinitely without charge "in the interest of national security." These detention decrees were inconsistent with the constitution but have not been subject to judicial challenge. The government claimed it no longer enforced the decrees; however, such detentions occurred.

For example, on April 30, in Banjul, security forces arrested Mouctar Diallo, a Guinean citizen visiting the country while studying at the American University in Cairo. Diallo, who came to The Gambia to study the relationship between West African nomads and globalization, was charged with "threatening national security" but later cleared by the NIA and allowed to leave the country.

Arbitrary Arrest: Security forces arbitrarily arrested journalists, an Islamic scholar, human rights activists, and other citizens during the year (see sections 1.e., 2.a., and 5).

Lamin Mboge, a lawyer known for his commitment to human rights, was arrested and prosecuted under spurious charges. On January 26, Mboge, a former magistrate and leading counsel in the Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP) case (see section 5), was arrested and charged with "false swearing" and "uttering false documents" and remanded to Mile 2 Central Prison. The arrest followed a criminal complaint lodged by one of Mboge's clients over land he allegedly sold without lawful authority. Mboge denied the charges and was released on bail; his trial was ongoing at year's end.

Pretrial Detention: Backlogs and inefficiency in the justice system resulted in lengthy pretrial detention. Approximately 27 percent of inmates in the prison system were in pretrial detention, and some had been incarcerated for several years awaiting trial.

Amnesty: Several detainees were released without charge or pardoned during the year, including Moses Richards, a former high court judge (see section 1.e.).

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, the courts lacked independence and were inefficient and corrupt. Amnesty International noted that the president's power to remove a judge, nominally in consultation with the Judicial Service Commission, impeded judicial independence. Judges presiding over "sensitive" cases who made decisions not considered favorable to the government risked being fired. Frequent delays and missing or unavailable witnesses, judges, and lawyers often impeded trials. Many cases also were delayed because of adjournments to allow the police or NIA time to continue their investigations.

To alleviate the backlog, the government continued to recruit judges and magistrates from other Commonwealth countries with similar legal systems. Foreign magistrates and judges, who often presided over sensitive cases, were particularly subject to executive pressure.

In April 2010 high court judge Moses Richards was dismissed without explanation amid reports he criticized the domination of the bench by Nigerian judges and magistrates. In December 2010 Richards, who had gone into private legal practice, was arrested, denied bail, and charged with sedition and "giving false information to the public servant," a reference to a letter he addressed to the sheriff of the High Court regarding a land dispute in the village of Jabang. On September 19, Richards was convicted and sentenced to two years' imprisonment with hard labor by the Nigerian-born magistrate who presided over the case. On October 14, Richards was released from prison by presidential pardon following an apology and plea for mercy he addressed to President Jammeh.

Trial Procedures

The law provides for the presumption of innocence. Trials were public, unless closed-court sessions were necessary to protect the identity of a witness. Juries were not used. Defendants can consult with an attorney and have the right to confront witnesses and evidence against them, present witnesses and evidence on their own behalf, and appeal judgment to a higher court. The law extends the above rights to all citizens, and no groups were denied these rights during the year; however, detainees were rarely informed of their rights or the reasons for their arrest or detention, according to Amnesty International.

Military tribunals cannot try civilians. Court-martial proceedings are presided over by a judge advocate assisted by a panel of senior military officers.

The judicial system also recognizes customary law and sharia (Islamic law).

Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. District chiefs preside over local tribunals that administer customary law at the district level. Customary law recognizes the rights of all citizens regardless of age, gender, and religion; however, it requires women to show respect for their husbands, and children to demonstrate respect for their parents.

Sharia applies in domestic matters, including Muslim marriage, divorce, and inheritance. Islamic, or Cadi, courts discriminated against women. Cadi courts and district tribunals do not offer standard legal representation to the parties in a case, since lawyers are not trained in Islamic or customary law.

Political Prisoners and Detainees

During the year there were credible reports that the government held civilians based on their political views or associations, and some were held incommunicado for prolonged periods. There were nearly 30 political prisoners in detention at year's end. Most were former military personnel accused of involvement in plots to overthrow the government. They were held in the security wing of Mile 2 Central Prison, but were occasionally

allowed visits from family members. The government did not allow regular access to such persons by international human rights organizations.

During the year the trial of former minister of information Amadou Scattered Janneh and three of his alleged collaborators – Modou Keita, Ebrima Jallow, and Michael C. Uche Thomas – continued. In June they were arrested and held for 42 days without charge. They were charged in July with treason, conspiracy to commit treason, and seditious acts in connection with the printing and distribution of 100 T-shirts bearing the inscriptions "Coalition for Change-The Gambia" and "End Dictatorship Now." Three Gambian journalists living in exile – former Gambian Press Union (GPU) president Ndey Tapha Sosseh, columnist Mathew Jallow, and Famara Demba – also were charged with treason and sedition.

On May 11, the Special Criminal Court in Banjul acquitted and discharged 12 of 16 persons standing trial on terrorism charges. Those acquitted included Gambian citizens Kemo Conteh, army Staff Sergeant Sam Kambai, NIA officer Kebba Seckan, Samsudeen Jammeh, and eight Senegalese citizens. Trials of the remaining four of the 16 accused – Alasana Thomas Jarju, Maulud Badjie, Lasana (Prosper) Sambou, and Ousman Jarju – continued at year's end. In 2009 there were reports that all four had been held incommunicado for three or four years on terrorism charges in an unknown location.

On April 14, the Court of Appeal dismissed the appeals of seven of eight men convicted of plotting to overthrow the government in 2009 and sentenced to death in July 2010. The seven were former GAF chief of defense staff General Lang Tombong Tamba; former GAF director of operations and training Brigadier General Omar Bun Mbye; the commander of the army unit in the president's home village, Lieutenant Colonel Kawsu Camara; the head of GAF intelligence, Major Momodou Lamin Bo Badjie; former deputy inspector general of police Momodou Gaye; former diplomat Ngorr Secka; and real estate dealer Abdoulie Joof. The eighth man, businessman Yusuf Ezziden, appealed separately but did not appear in court and reportedly left the country. Tamba and his six colleagues filed an appeal in August with the Supreme Court, which was pending at year's end.

On May 23, Tamba, who was already serving a death sentence for allegedly plotting a coup, and former chief of naval staff Rear Admiral Sarjo Fofana were convicted of concealment of treason and sentenced to 20 years' imprisonment in connection with an unsuccessful coup plot in 2006. Tamba, who originally was credited with foiling the plot when he alerted the president and mobilized loyal forces to arrest officers said to be involved, was charged with concealment of treason in June 2010.

Two of the detainees held after the disclosure of the 2006 abortive coup plot – Alieu Lowe, nephew of the fugitive coup leader, and Abdoulie Njie – were still being held at Mile 2 Central Prison without charge, but their families were allowed access to them during the year. The trial of a third detainee, Hamadi Sowe, who was charged with concealment of treason, continued at year's end.

United Democratic Party (UDP) supporter Kanyiba Kanyi, who was arrested by men believed to be state security agents and held without charge shortly before the 2006 presidential elections, remained in prison at year's end. The government has not permitted access to Kanyi by his lawyer or international humanitarian organizations. In 2008 Kanyi's lawyer, who maintained Kanyi was being held by the NIA, filed an application to force the state to comply with the 2006 high court rulings to free him. In 2009 the judge presiding over the case returned the case file to the Office of the Chief Justice in an apparent attempt to recuse himself from the trial; the judge provided no explanation for the return of the case file. Kanyi reportedly was sighted by a relative in 2008 at the Royal Victoria Hospital, where he was being escorted by wardens from Mile 2 Central Prison.

During the year the government provided conflicting accounts of the whereabouts of missing journalist "Chief" Ebrima Manneh, who was arrested by security officers in 2006 and subsequently disappeared (see section 1.b.).

In January 2010 former NIA director Ousman Sowe, who was arrested in 2009 for "delaying a document of national security interest," was released unconditionally.

Civil Judicial Procedures and Remedies

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

The government did not comply with the 2008 ruling of the Economic Community of West African States (ECOWAS) Court to release missing journalist "Chief" Ebrima Manneh and pay compensation of \$100,000. The government also refused to comply with a 2010 ruling by the same court to pay \$200,000 in compensation to exiled journalist Musa Saidykhan, who alleged that security agents tortured him during his detention in 2006.

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. The government generally enforced Decree 45, which applies constitutional safeguards against arbitrary searches and the seizure of property without due process. 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

Status of Freedom of Speech and Press

The constitution and law provide for freedom of speech and press; however, the government restricted these rights. According to the Observatory for the Protection of Human Rights Defenders, "the environment for independent and opposition media remained hostile, with numerous obstacles to freedom of expression, including administrative hurdles, arbitrary arrest and detention, intimidation and judicial harassment against journalists, and the closure of media outlets, leading to self-censorship."

Freedom of Speech: Individuals who publicly or privately criticized the government or the president risked government reprisal.

For example, on June 18, security forces arrested without charge Alhaji Ismaila Manjang, a prominent Islamic scholar and imam in the coastal town of Gunjur. The arrest followed Manjang's graduation speech given at his Islamic institute in which he condemned practices that could be considered idolatrous, such as visits to shrines to seek blessings. Manjang was subsequently held incommunicado at NIA headquarters for four days. At year's end Manjang had not been charged with any offense but was required to report frequently to the NIA.

Freedom of Press: Constitutional protections were undermined by laws that impose excessive bonds on media institutions, require newspapers to reregister annually, and mandate harsh punishment for the publication of false information. According to Freedom House, these provisions gave authorities great power to silence dissent.

On March 16, President Jammeh warned independent journalists that he would "not compromise or sacrifice the peace, security, stability, dignity, and the well being of Gambians for the sake of freedom of expression." Accusing some journalists of being the "mouthpiece of opposition parties," he vowed to prosecute any journalist who offended him.

The government published *The Gambia Info* newspaper, formerly called *The Gambia Daily*. The privately owned *Daily Observer* newspaper 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.

The government-owned Gambia Radio and Television Services (GRTS) and nine private radio stations broadcast throughout the country. GRTS gave limited coverage to

opposition activities. 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.

Violence and Harassment: Media restrictions tightened during the year, and the government continued to harass and detain journalists. Numerous journalists remained in self-imposed exile as a result of government threats and harassment. On March 16, police arrested and detained Dodou Sanneh, a journalist who petitioned the president during the year to request reinstatement at GRTS following Sanneh's 2006 dismissal from his position there. On September 15, Sanneh was convicted of "giving false information to a public servant" and fined 500 dalasi (\$17) or six months in prison. The GPU paid the fine.

On June 27, Ahmed Alota, the executive director of the GPU, was arrested and detained overnight at PIU headquarters following the transmission by Skype of a statement made by Ndey Tapha Sosseh, the union's exiled former president, at the GPU Congress. On July 1, journalist Madi S. Njie, the newly elected secretary general of the GPU, was arrested at the offices of the *Standard* newspaper. Njie was reportedly questioned about a report on Alota's arrest sent to the Ghana-based media watchdog Media Foundation for West Africa and the underground civil society organization The Coalition for Change, of which Sosseh was a member. Both Alota and Njie were released without charge.

Journalists from news outlets perceived to be critical of the government were routinely denied access to public information and were excluded from covering official events at certain venues.

Censorship or Content Restrictions: Private media outlets generally practiced self censorship for fear of reprisal by the government, and many avoided content deemed contrary to the principles of Islam or offensive to other religions and sects. Nevertheless, opposition views regularly appeared in the independent press, and there was frequent criticism of the government in the private media.

On several occasions during the year, NIA authorities ordered community radio station Taranga FM to stop broadcasting news in local languages or face closure. Taranga was the only private radio station in the country that broadcast national news in local languages, a valued service to the large illiterate segment of the population. The station was forced off the air for 32 days in January and February but was subsequently allowed to broadcast on condition that the station not review opposition newspapers. Referring to the government's action, the Committee to Protect Journalists issued a statement in August noting that it "condemned the illegal act of political censorship to silence Taranga FM ahead of the November presidential elections." At year's end Taranga FM continued its local language broadcasts but avoided sensitive or controversial stories.

Libel Laws/National Security: In previous years the NIA was involved in arbitrary closures of media outlets and the extrajudicial detention and torture of journalists; however, there were no such reports during the year.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail. However, Internet users reported they could not access the Web sites of the foreign online newspapers *Freedom* and *The Gambia Echo*, which criticized the government.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, police occasionally refused to issue permits to opposition parties wishing to hold political rallies.

In October police denied a permit to members of the Gambia Bar Association seeking to protest the conviction and imprisonment of lawyer Moses Richards (see section 1.e.). The inspector general of police said he denied the permit on grounds of public security and safety.

Unlike in the previous year, there were no reports that opposition leaders were imprisoned for organizing political rallies without permits.

Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion

See the Department of State's *2010 International Religious Freedom Report*.

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, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to assist internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern. The UNHCR coordinated government efforts with the International Organization for Migration, the Gambia Red Cross Society, and other agencies to provide this protection and assistance.

Foreign Travel: 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 traveling abroad.

Protection of Refugees

Access to Asylum: Neither the constitution nor the law provides for the granting of asylum or refugee status, but the government has established a system for providing such protection to refugees and granted refugee status during the year.

The UNHCR reported 9,415 refugees in the country, of whom 8,359 were Senegalese who fled the Casamance conflict in Senegal. The UNHCR provided assistance with basic needs and services and implemented livelihood programs. The refugee status of the second largest group – 709 refugees from Liberia – was scheduled to expire in June 2012, except for compelling cases in which individuals still felt threatened. During the year the number of refugees from Cote d'Ivoire increased from 70 to 305 as a result of the post-election crisis in that country. The country also hosted smaller numbers of refugees from Togo, the Democratic Republic of Congo, Somalia, Eritrea, Sudan, Guinea-Bissau, Rwanda, and Cameroon.

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; however, citizens were unable to exercise this right in the November 24 presidential election due to the government's intimidation of voters and ruling party control of the media.

Elections and Political Participation

Recent Elections: On November 24, voters reelected President Jammeh to a fourth term with 72 percent of the vote. The election was peaceful and orderly, and more than 83 percent of voters participated. UDP leader Ousainu Darboe came in second with 17 percent, and independent candidate Hamat Bah received 11 percent. Prior to the

election, ECOWAS said its investigations found "an opposition and electorate cowed by repression and intimidation." Explaining its decision not to send election observers, ECOWAS added that the preparations and political environment were not conducive to the conduct of free, fair, and transparent polls. Mustapha Carayol, the chairman of the Independent Electoral Commission, characterized the ECOWAS criticism as lies. Other government sources claimed the ECOWAS boycott was the result of a personal dispute rather than based on fact. The opposition criticized government control of the state-owned media, a shortened official campaign period, use of state resources by the ruling party, and the overt participation in political activity by government officials and members of the security forces. However, the UDP and its alliance partners did not challenge election results in court, claiming that they were not given sufficient time to do so.

Political Parties: President Jammeh's party, the APRC, held 42 of 48 seats in the National Assembly and continued to dominate the political landscape. APRC membership conferred advantages, such as expediting government transactions, facilitating access to certain documents, and securing employment contracts.

Participation of Women and Minorities: 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 five women in the 16-member cabinet, including the vice president.

No statistics were 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 minority Jola ethnic group.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively. The World Bank's most recent worldwide governance indicators reflected that corruption was a serious problem.

The president spoke against corruption on numerous occasions during the year and in July 2010 formally enunciated a policy of "zero tolerance for drugs and corruption." The financial intelligence unit, which was established in 2009, is responsible for combating corruption. There were no new prosecutions for corruption of senior police, military, or civilian officials during the year.

On July 29, a court sentenced former inspector general of police Ensa Badjie to life imprisonment for armed robbery, abuse of office, and other crimes. Former chief superintendent of prisons Ali Ceesay, also accused in the case, was fined 30,000 dalasi (\$1,050), which he paid.

The trial in a separate case against Ensa Badjie, former commander of the military police unit of the army Lieutenant-Colonel Mam Matarr Secka, and Major Kuluteh Manneh continued at year's end. The three defendants were charged with corruption, abuse of office, involvement in drug-related crimes, and armed robbery.

At year's end the trial continued of four NDEA senior officers, including Director General Ebrahim Bun Sanneh; his deputy, Karamo Bojang; and former director of operations Ousman Sanneh. In March 2010 the four were dismissed and charged with corruption, drug-related offenses, and abuse of office.

Public officials were subject to financial disclosure laws, but these laws were seldom enforced.

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

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated despite government restrictions, investigating and publishing their findings on human rights

cases. However, government officials were seldom cooperative or responsive to their views. According to Annual Report 2011 of the Observatory for the Protection of Human Rights Defenders, the legal and institutional environment in the country continued to limit nongovernmental organizations (NGOs) and human rights monitoring activities. The NGO Decree of 1996 imposes a cumbersome registration process, allows the government to reject valid NGO registration, and requires annual submissions of budgets and work programs. The 2010 decision to place supervision of NGO activities under the Office of the President resulted in increased restrictions. Human rights organizations censored themselves and focused on nonsensitive issues. Several groups expressed concern over detainees held incommunicado, but the government did not respond.

The government harassed, arrested, and detained human rights workers.

There were reports during the year that in February 2010 the Immigration Department arrested and detained for three days Edwin Nebolisa Nwakaeme, the founder and program director of Africa for Democracy and Good Governance (ADG), for allegedly lying about the category of his organization on a registration form. In March 2010 the Serious Crimes Unit of police headquarters in Banjul summoned and rearrested him. Nwakaeme was subsequently charged with "giving false information to public officials" for claiming in a letter to the Office of the President that ADG was an NGO, despite the fact that it was registered as a charity. In the letter Nwakaeme had requested President Jammeh's daughter to accept her nomination as an ADG ambassador. In September 2010 Nwakaeme was sentenced to six months' imprisonment with hard labor and a fine of 10,000 dalasi (\$350). The court also banned him from running ADG in the country and ordered him to surrender all the documents including the license pertaining to the organization. In December 2010 the Banjul High Court upheld Nwakaeme's conviction on appeal. On January 14, Nwakaeme was released from jail and deported to Nigeria, his native country.

At year's end the trial continued of two prominent gender activists and campaigners against female genital mutilation (FGM) – Isatou Touray, executive director of the NGO GAMCOTRAP, and the agency's program coordinator, Amie Bojang Sissoho. Touray and Sissoho, who were arrested in October 2010, were charged with mismanaging 30,000 euros (\$40,200) granted by the Spanish NGO Yolocamba Solidaridad. The two were subsequently denied bail and spent eight days in prison before their trial could proceed. The charges of theft were reportedly based on the findings of an investigative panel that looked into GAMCOTRAP's management of the Yolocamba grant. A previous panel set up by the Office of the President in May 2010 concluded that the allegations of mismanagement were unfounded. On January 31, during a hearing at Banjul Magistrate's Court, the director of the Spanish NGO denied accusing anyone associated with GAMCOTRAP of theft. Both Touray and Sissoho continued their work with GAMCOTRAP during the year.

UN and Other International Bodies: The government allowed visits during the year by the UN and other international governmental organizations, such as ECOWAS and the Commonwealth Secretariat; however, the government offered no public response to reports issued after the visits.

Government Human Rights Bodies: The Office of the Ombudsman, which was established and funded by the government, operated a national human rights unit (NHRU) to promote and protect human rights and to support vulnerable groups. During the year the unit received and addressed complaints regarding unlawful dismissals, termination of employment, unfair treatment, and illegal arrest and detention. According to the 2010 report from the Office of the Ombudsman, which was released on October 17, the organization received 83 complaints, most of which involved the police force. Of the 83 complaints, 38 were resolved in favor of complainants, 19 were dismissed, 15 were discontinued, and the remainder were pending.

Section 6. 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. However, discrimination against women remained a problem

Women

Rape and Domestic Violence: The penalty for rape is life imprisonment; however, rape, including spousal rape, was a widespread problem. The maximum penalty for attempted rape is seven years' imprisonment. A small number of cases reported to police were prosecuted; most prosecutions resulted in conviction. At least six rape cases were brought to the courts during the year. The law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it. Police generally considered reports of spousal rape to be domestic issues outside of their jurisdiction.

The law prohibits any form of violence against women; however, domestic violence was a problem. Domestic violence was underreported due to the stigma attached to it. Cases were seldom prosecuted and usually settled through counseling and dialogue with family elders.

On January 26, Ebrima Drammeh of Brikama Gidda was convicted of common assault for slapping his wife and fined 5,000 dalasi (\$175) or in default to serve one year in prison.

GAMCOTRAP, one of the leading women's rights NGOs in the country, included gender-based violence in its training modules for combating FGM. Another group, the Female Lawyer's Association of The Gambia, educated women on their rights and represented them, often pro bono, in domestic violence cases.

Sexual Harassment: The law prohibits sexual harassment and provides for a one-year mandatory prison sentence for offenders. No cases were reported during the year, but sexual harassment remained a problem.

Sex Tourism: The law prohibits sex tourism, but the problem was occasionally reported in tourist resort areas.

Reproductive Rights: The government did not interfere with the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Couples and individuals had access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. Women were equally diagnosed and treated for sexually transmitted infections. The maternal mortality rate during the year was 378 per 100,000 live births.

During the year the national reproductive and child health unit of the Department of 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. All maternal health care services were provided free of charge in government-run hospitals.

Discrimination: The law provides equal rights to men and women and prohibits discrimination on grounds of gender; however, women experienced a wide range of discrimination in matrimonial rights, property ownership, and inheritance rights. Employment in the formal sector was open to women at the same salary rates as men, and no statutory discrimination existed in other kinds of employment, access to credit, or owning and managing a business; however, societal discrimination lingered, and women generally were employed in such pursuits as food vending or subsistence farming.

Sharia law is applied in marriage, divorce, and inheritance cases for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than men. The churches concerned and the office of the attorney general settled Christian and civil marriage and divorce issues.

Marriages often were arranged and, depending on the ethnic group, polygyny was practiced. Women in polygynous unions had problems with 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 by their husbands. 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.

Children

Birth Registration: Citizenship is derived by birth within the country's territory and from one's parents; however, not all births were registered. To access health care and treatment at public health centers, children were required to have a clinic card, which was available without birth registration. Birth certificates were often required to enroll in school, but they could easily be obtained.

Education: The constitution and law mandate compulsory, tuition-free primary education from ages six to 12, but families often had to pay tuition as well as fees for books, uniforms, lunch, school fund contributions, and exam fees. During the year the government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in Islamic schools, called madrassas. Girls constituted approximately 51 percent of primary school students and one-third of high school students. The enrollment of girls was lower in rural areas, where poverty and cultural factors often led parents to decide against sending their daughters to school. As part of the government's initiative to increase the numbers of girls in school, the government ensured that tuition for female students was consistently waived.

Child Abuse: Child abuse occurred. Serious cases of abuse and violence against children were subject to criminal penalties, and authorities generally enforced laws when cases of child abuse or mistreatment were brought to their attention.

The penalty for rape is life imprisonment. However, because of the difficulty of proving rape of minors, particularly very young children, the charge was generally defilement or having carnal knowledge, both of which carry a prison sentence of 14 years.

That was at least one conviction for rape during the year. On October 17, Yankuba Njie, a resident of Fajikunda in Kanifing Municipality, was sentenced to life imprisonment with hard labor for raping and kidnapping a teenager. Other cases involving child rape that remained before the courts included Italian national Regnoni Renato, charged with raping a 13-year-old child; Landing Sanneh of Kololi, accused of raping a seven-year-old girl; Koranic teacher Alhagie Faal, accused of raping a 10-year-old student; and Dutch national Handre Van Roye, who was charged with rape and abuse of underage children.

Harmful Traditional Practices: The law does not prohibit FGM, and the practice remained widespread. A 2005-06 survey by the UN Children's Fund found that approximately 78 percent of girls and women had undergone FGM, and seven of the nine major ethnic groups practiced FGM on girls from shortly after birth until age 16. FGM was less frequent among educated and urban groups. Some religious leaders publicly defended the practice. There were reports of health 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 several district chiefs, ward councilors, members of the Council of Elders, religious leaders, female leaders, and female circumcisers attended GAMCOTRAP seminars on the harmful effects of FGM. GAMCOTRAP continued its campaign for a law banning FGM.

Child Marriage: 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 age 12. There are no laws against forced marriage, and in many villages, young girls were forced to marry at a young age.

Sexual Exploitation of Children: The law provides for 14 years' imprisonment for commercial sexual exploitation of children and a five-year prison term for child pornography. The minimum age for consensual sex is 18. Children in prostitution worked in some brothels, often to support their families or because they were orphans. A small number of children were also trafficked for forced commercial sexual exploitation. NGOs believed that some tourists living in remote guesthouses and motels were involved in the sexual exploitation of children. Security forces in the tourism development area were

instructed to turn away all minors who approached the main resort areas without an acceptable reason.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

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

Trafficking in Persons

See the Department of State's [2011 Trafficking in Persons Report](#).

Persons with Disabilities

The constitution prohibits exploitation of and discrimination against persons with disabilities in access to health services, education, and employment; however, there were no laws to ensure access to buildings for persons with disabilities, and very few buildings in the country were accessible to them. The law requires that judicial proceedings involving a person with disabilities take into account the disability. There were no laws or programs to ensure that persons with disabilities had access to information or communications.

Persons with severe disabilities experienced discrimination and subsisted primarily through private charity. Persons with less severe disabilities encountered less discrimination, including in employment for which they were physically and mentally capable.

The Department of Social Welfare is responsible for protecting the rights of persons with disabilities and worked with the Gambia Organization for the Visually Impaired and the School for the Deaf and Blind to help educate children with disabilities and to promote relevant skills. The department also worked with international donors to supply wheelchairs to some persons with disabilities. Several NGOs sought to improve awareness of the rights of persons with disabilities and encouraged their participation in sports and other 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 election days.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law establishes prison terms ranging from five to 14 years for any man who commits in public or private "any act of gross indecency," engages a male sex worker, or has actual sexual contact with another man; however, to date, no one has been prosecuted. There was no similar law targeting women. There was strong societal discrimination against LGBT individuals, some of whom were shunned.

In a January speech to army officers, President Jammeh announced he wanted a professional army "free of gays and saboteurs." In a 2009 speech before the National Assembly, President Jammeh called homosexual conduct "strange behavior that even God will not tolerate." Despite such statements, there were no reported incidents of physical violence against LGBT individuals during the year. There were no LGBT organizations in the country.

Other Societal Violence or Discrimination

Societal discrimination against persons infected with HIV/AIDS hindered disclosure and resulted in rejection by partners and relatives. The government took a multisectoral approach to fighting HIV/AIDS through its national strategic plan, which provided for care, treatment, and support to persons living with or affected by HIV/AIDS. The plan also included HIV prevention programs for high-risk populations. Throughout the year the Ministry of Health urged persons to undergo voluntary HIV/AIDS counseling and testing.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides that workers are free to form and join independent unions, conduct legal strikes, and bargain collectively. Military personnel, police officers, and other civil service employees are prohibited from forming unions or going on strike. Unions must register to be recognized.

The government places restrictions on the right to strike by requiring unions to give the commissioner of labor written notice 14 days before beginning an industrial action (28 days for essential services). Police and military personnel had access to a complaints unit, and civil servants could take their complaints to the public service commission or the government's personnel management office. 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 law provides for reinstatement of workers fired for union activity. The law also sets minimum contract standards for hiring, training, and terms of employment and provides that contracts may not prohibit union membership. No category of workers is excluded from relevant legal protections.

Although there was minimal contentious union activity or labor disputes, the government effectively enforced the law when necessary. Enforcement procedures were subject to lengthy delays and appeals.

Freedom of association and the right to collective bargaining were respected in practice. Worker organizations are independent of the government and political parties. There were no instances of government interference in union activities, including the targeted dissolving of unions or the use of excessive force to end strikes or protests. There were no cases in which registration was denied to a union that applied. There were no incidents of violence, threats, or other abuses targeting union leaders and members by government or employers.

Although trade unions were small and fragmented, collective bargaining took place. Unions were able to negotiate without government interference; however, in practice they lacked experience, organization, and professionalism and often turned to the government for assistance in negotiations. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management. Most collective agreements were registered with the Department of Labor and remained valid for a period of three years before being renewed.

The government intervened to assist workers whose employers fired them or discriminated against them. For example, the Department of Labor and the Gambia Workers Union supported the case of a female employee of a local company, Shyben A. Madi and Sons Limited, who took the company to court for wrongful termination, claiming damages of 9.3 million dalasi (\$325,500). The employee, Ida Suso-Fay, claimed that her supervisor repeatedly harassed her after she became pregnant in 2010 and fired her without explanation while she was on maternity leave. The case continued at year's end.

There were no reports of violations of collective bargaining rights or of employers refusing to bargain, bargaining with unions not chosen by workers, or using other hiring practices to avoid hiring workers with bargaining rights. There were no occurrences of antiunion discrimination.

b. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced or compulsory labor, including by children, and the government enforced these laws; however, forced labor occurred. Women and children were subjected to trafficking, including forced labor and prostitution.

During the year a few Koranic teachers known as "marabouts" forced their students known as "Almudus" to sell items on the streets; however, the practice rarely occurred after police began intervening and ordered marabouts to stop.

See also the Department of State's [2011 Trafficking in Persons Report](#).

c. Prohibition of Child Labor and Minimum Age for Employment

The constitution prohibits economic exploitation of children under 16 years of age, and the law prohibits exploitive labor or hazardous employment of children under the age of 18; however, the government did not effectively enforce the law. The Children's Act sets the minimum age for light work at 16 years and for apprenticeship in the informal sector at 12 years. Most children completed their formal education by the age of 14 and then began work. The law implicitly applies only to the formal sector.

Child labor in the informal sector was difficult to regulate. Rising costs of school fees combined with stagnating incomes prohibited some families from sending their children to school, contributing to child labor. In urban areas some children worked as street vendors, domestics, or taxi and bus assistants. There were a few instances of children begging on the street. Other sectors where children between the ages of 14 and 17 were known to work include carpentry, masonry, plumbing, tailoring, and auto repair. Children in rural areas worked on family farms.

The Department of Labor is responsible for enforcing child labor laws and conventions on the worst forms of child labor; however, the government took no action to prevent or combat child labor during the year. Employee labor cards, which include a person's age, were registered with the labor commissioner, who was authorized to enforce child labor laws. Nevertheless, enforcement inspections rarely took place.

Also see the Department of Labor's [2010 Findings on the Worst Forms of Child Labor](#).

d. Acceptable Conditions of Work

The minimum wage was 50 dalasi (\$1.75) per day, although this only covered the 20 percent of the workforce employed in the formal sector. The government considered the national poverty baseline to be 38 dalasi (\$1.33) per person per day. Most workers were paid above the minimum wage. The Department of Labor is responsible for enforcing the minimum wage. 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 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 of 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 pay 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 the 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. 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. 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.

The Department of Labor effectively enforced the wage law and workweek standards when cases were brought to its attention.

In April 2010 the National Assembly passed an amendment to the payroll tax act that prohibits employers from hiring noncitizens in excess of 20 percent of their workforce except in the specialized professional category. The amendment was designed to encourage employers to train and employ more local citizens. In October the Department of Labor, working with the six Joint Industrial Councils, submitted recommendations for national minimum wage levels for each of the occupations represented by the councils, namely commerce, artisans, transport, port operations, agriculture, and fisheries. The recommendations were being reviewed by the Ministry of Trade, Industry, Regional Employment and Employment at year's end.

There was no specific government action during the year to prevent violations of workers' rights or to improve working conditions, particularly for hazardous sectors or vulnerable groups.

In practice workers could not refuse to work in dangerous working conditions without risking loss of employment.

During the year there were no reports of violations of wage, overtime, or health and safety standards; no particular group of workers was subject to hazardous or exploitative working conditions; and there were no occurrences of workplace fatalities and accidents or major industrial accidents in which workers were injured or killed.
