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Country Report on Human Rights Practices 2010

The Gambia is a multiparty democratic republic with an estimated population of 1.7 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 the National Assembly after its 2007 elections, which were also considered partially free and fair. There were instances in which elements of the security forces acted independently of civilian control.

Human rights problems included government complicity in the abduction of citizens; torture and abuse of detainees and prisoners, including political prisoners; poor prison conditions; arbitrary arrest and detention of citizens, including incommunicado detention; denial of due process and prolonged pretrial detention; restrictions on freedom of speech and press; violence against women and girls, including female genital mutilation (FGM); forced child marriage; trafficking in persons; child prostitution; discrimination against homosexual activity; and child labor.

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 during the year.

In March 2009 Dodou Janneh, a police volunteer attached to the national drug enforcement agency, appealed the 2008 death sentence he received for the 2007 killing of Sheriff Minteh during a police raid in Serrekunda; the appeal was before the courts at year's end.

In April 2009 the joint fact-finding team created by the UN and the Economic Community of West African States (ECOWAS) to investigate the 2005 deaths of more than 50 Ghanaians and other West African nationals in the country submitted a report of its findings. The report stated that "rogue elements" in the security services were responsible for the deaths and disappearance of the Ghanaians and recommended that the government pay compensation to the government of Ghana for the killings and exhume and return the bodies of six Ghanaians found buried in the Tanji forest. In October 2009 the six bodies were returned to Ghana, according to Ghanaian media reports. While the government did not provide compensation, it paid for exhumation of the bodies and provided some funds to families of the victims.

b. Disappearance

There were no reports of politically motivated disappearances; however, the government was complicit in the abduction of citizens suspected of witchcraft.

Between January and June 2009, the BBC and newspaper *Foroyaa* carried a series of reports about so-called "witchdoctors" from Guinea, who abducted up to 1,000 villagers in the country during the same period, held them for several days, and forced them to drink an herbal concoction that resulted in illness and two deaths. There were unconfirmed reports that some villagers were subsequently forced to confess to being witches. According to Amnesty International (AI), the Guineans were invited into the country after the death of the president's aunt, which was attributed to witchcraft. Officials in the police, army, and the president's personal protection guard reportedly accompanied the Guineans. The Guineans, who were driven around in government vehicles, also conducted "cleansing rituals" in several government offices in Banjul as well as in several other towns and villages. In May 2009 in Brefet, President Jammeh said he had to "bring in witchdoctors to identify and eradicate witches," who, he said, were responsible for underdevelopment in the districts of Foni, according to the government newspaper *The Gambia Daily*.

During an address to the National Assembly in April 2009, the former attorney general and justice minister denied that journalist "Chief" Ebrima Manneh, who was arrested by secur

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.

On August 5, former inspector general of police Ensa Badjie and former commander of the military police unit of the army Lieutenant-Colonel Mam Matarr Secka, who were on trial for corruption, abuse of office, and drug-related offenses, told their lawyer state security agents severely tortured them.

There were no developments in the following 2008 cases of torture and abuse by security forces: the March stabbing of Amadou Sanyang by members of the police intervention unit; the June torture and beating of five residents of Lamin Daranka during their arrest and transfer to Yundum Police Station; and the torture of Abdoulie Faye over an 18-day period in September by members of the police criminal investigation division.

In April 2009 former National Assembly member Musa Suso, while being tried on charges of giving false information to a public officer, alleged that while serving an earlier prison sentence (from 2000 to 2007) he was denied food and was tied and beaten for three days after a telephone calling card was discovered in his cell. In December 2009 Suso was acquitted of some of the charges against him, but he was convicted of others and sentenced to 18 months in prison.

On June 3, former editor in chief of the *Independent* newspaper, Musa Saidykhan, testified before the ECOWAS Community Court of Justice in Abuja in his case against the government of the Gambia for his illegal detention and torture in 2006. The case was filed on Saidykhan's behalf by the MFWA in 2007. Saidykhan, who lives abroad in self-imposed exile, claimed that security forces applied electric shocks to his naked body during his 22-day detention; Saidykhan subsequently was released without charge. In June 2009 the court's three-member panel rejected the government's claim that plaintiffs first had to exhaust legal remedies at the national level before appealing to ECOWAS. On December 16, the court ruled that Saidykhan was indeed tortured by state security agents while in detention in 2006. The three-member panel awarded him damages of 5.4 million dalasi (\$200,000).

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 at other times. However, 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, and cells were overcrowded, damp, and poorly ventilated. Inmates complained of poor sanitation and food. Unlike in previous years, there were no reports that guards were reluctant to intervene in fights between prisoners. Local prisons were overcrowded, and inmates occasionally slept on the floor. Prior to conviction, detainees were allowed to receive food from outside, but not after conviction. Medical facilities in prisons were poor; inmates who fell ill often 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 are extremely high and there were no ceiling fans to reduce the heat.

Unlike during the prior year, no prisoners at the Mile 2 Central Prison died during the year as a result of poor food or inadequate medical care. In March 2009 Benedict Jammeh, former police inspector general and current director at the National Drug Enforcement Agency (NDEA), testified at Musa Suso's trial that inmates at Mile 2 Central Prison were fed tainted meat that resulted in the deaths of several prisoners; a committee of senior police officers subsequently confirmed the report. In May 2009 David Colley, the director general of prison

services, testified in the same trial that 23 inmates in 2006 and 40 in 2007 died in prison, primarily as a result of chronic anemia, abdominal infection, and food poisoning.

Pretrial detainees occasionally were held with convicted prisoners. At year's end, there were more than 800 inmates in the country's prisons. Women and men were held in separate wings, as were juveniles and adults.

There were occasional reports of lawyers' and family members being denied access to detainees at Mile 2 Central Prison, but generally all prisoners had access to visitors. Prisoners were free to observe any religion. Prisoners and detainees who had complaints could transmit them through their lawyers or relatives, who could take up the complaints with judicial authorities.

Authorities sometimes investigated credible allegations of inhumane conditions, as was the case in the reports of prisoners in Mile 2 being fed tainted beef in 2006. A Prisons Visiting Committee, which comprises several government agencies, is empowered to monitor detention center conditions, but it was thought to be inactive during the year.

The Office of the Ombudsman can investigate all reports brought before it, including bail conditions, pretrial detention, and confinement of juvenile offenders. However, it is not involved in negotiating alternatives for suspects facing the law. The Office of the Ombudsman did not publish findings of any investigations it conducted during the year.

The government permitted limited independent monitoring of prison conditions by some local and international human rights groups and diplomatic missions; however, neither the media nor the International Committee of the Red Cross (ICRC) 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 other 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 minister of defense, a position held by the president. The police, under the interior minister, are responsible for public security. The National Intelligence Agency (NIA) is responsible for protecting state security, collecting intelligence, and conducting covert investigations; it 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 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 action as a result.

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, 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. Detainees were not allowed prompt access to a lawyer or family members; convicted prisoners were generally permitted to meet privately with their attorneys. Indigent persons accused of murder or manslaughter were provided a lawyer 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, there were numerous detentions during the year that exceeded the 72-hour limit.

Security forces arbitrarily arrested journalists during the year (see section 2.a.).

Security forces arbitrarily arrested and detained civilians and members of the military during the year. For example, on March 5, the former minister of fisheries and water resources, retired Major Antouman Saho, was arrested and detained at Mile 2 Central Prison for several weeks without charge. He was released and rearrested several times, spending a total of more than four months in detention without charge, well beyond the 72-hour legal limit. He was finally pardoned by the president and released without charge in July.

On July 15, eight men accused of plotting to overthrow the government were convicted of treason and conspiracy and sentenced to death. The eight men are former chief of defense staff (CDS) of the Gambia Armed Forces (GAF) Lieutenant General Lang Tombong Tamba; former director of operations and training of the GAF Brigadier General Omar Bun Mbye; the commander of the army unit in the president's home village, Lieutenant Colonel Kawsu Camara; the head of military intelligence in the GAF, Major Momodou Lamin Bo Badjie; former deputy inspector general of police Momodou Gaye; former diplomat Ngorr Secka; real estate dealer Abdoulie Joof; and businessman Yusuf Ezziden. The men were arrested in November 2009 but were not charged until March 2010—well beyond the 72-hour legal limit. They were accused of plotting to overthrow the government, procuring weapons, and recruiting and training mercenaries in Guinea-Bissau to help them stage a coup. They vehemently denied all the charges and filed an appeal, which was before the Court of Appeal at year's end.

On June 18, former CDS General Tamba and former chief of naval staff Rear Admiral Sarjo Fofana were charged with concealment of treason in relation to the foiled coup plot in 2006 masterminded by former CDS Colonel Ndure Cham. Tamba, who was deputy CDS at the time, was credited with foiling the plot when he telephoned President Jammeh in Mauritania to inform him of the plan and mobilized loyal forces to arrest officers said to be involved.

In December 2009 NIA director Ousman Sowe was dismissed, arrested, and held incommunicado for several days. There were reports that he was accused of "delaying a document of national security interest." Sowe was being held without access to his family or lawyers at year's end.

On May 13, Bakary Gassama, former financial director of the NIA, was released after more than a year in detention on charges of abuse of office. He was later appointed as Financial Director at the National Drug Enforcement Agency (NDEA).

In June 2009 information surfaced on the lengthy incommunicado detention of four citizens. Kerno Conteh, army Staff Sergeant Sam Kambai, NIA officer Kebba Seckan, and Samsudeen Jammeh were brought before a magistrate in Brikama, along with 12 Senegalese nationals from the southern Casamance region; the four citizens had been held for two to three years incommunicado on terrorism charges in an unknown location. Their trial, which began on August 27, continued at year's end.

Two of the detainees held after the disclosure of the 2006 abortive coup plot—Aliou 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.

Backlogs and inefficiency in the justice system resulted in lengthy pretrial detention. Approximately 40 inmates in the prison system were in pretrial detention, and some had been incarcerated for several years 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; however, the courts, particularly at the lower levels, were corrupt and subject to executive pressure. AI noted that the presidential power to remove a judge, nominally in consultation with the Judicial Service Commission (JSC), impeded judicial independence. During the year the president removed two high court judges without consulting the JSC.

Judges presiding over "sensitive" cases who made decisions not considered favorable to the government risked being fired. For example, on June 8, the president dismissed Chief Justice Abdoukarim Savage without explanation. In June 2009 the president also terminated the appointment of Justice Haddy Roche, regarded as an independent thinker in legal circles; Roche had been dismissed from the bench twice previously. Several judges were dismissed under similar circumstances in 2008.

Government and security forces often disregarded court orders to release suspects and rearrested them to provide the prosecution more time to prepare its case.

Islamic, or Cadi, courts have jurisdiction over Islamic matters of marriage, divorce, and inheritance when 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.

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 also were delayed because of adjournments designed to allow the police or NIA time to continue their investigations.

Defendants are presumed innocent. Both civilian trials and courts-martial are held in public, but occasionally closed-court sessions are held to protect the identity of a witness. No juries are used in the civilian courts, but court-martial proceedings are presided over by a judge advocate assisted by a panel of senior military officers. 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. Indigent defendants charged with murder or manslaughter have the right to attorneys provided at public expense. 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 AI.

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 similar legal systems. 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, Sharia (Islamic), 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. Customary law recognizes the rights of all citizens regardless of age, gender, and religion. It does not call for discrimination, but women are expected to show respect for their husbands and children for their parents.

Sharia was employed primarily in Muslim marriage and divorce matters; it favored men in its provisions. General Law, following the British model, applied to felonies and misdemeanors 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 some were held incommunicado for prolonged periods. There were about 20 political prisoners in detention at year's end.

For example, 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 international humanitarian organizations or his lawyer. 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 July 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 March 2008 at the Royal Victoria Hospital, where he was being escorted by wardens from Mile 2 Central Prison.

The whereabouts of Chief Ebrima Manneh, who also was arrested without charge in 2006, remained unknown at year's end. The government denied Manneh was in its custody (see section 1.b.).

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. The government did generally enforce 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

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. In a July 2009 television interview, President Jammeh warned that journalists who tarnished the country's image would be "severely dealt with." Although the independent press practiced 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 Info*. 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 rebroadcast CNN, while local radio stations rebroadcast the BBC, Radio France Internationale, Voice of America, and other foreign news sources, all of which were also 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 and investigated cases it considered sensitive. Several journalists reportedly went into hiding from fear of government retaliation.

Security forces arbitrarily arrested and detained numerous journalists during the year. For example, on August 9, *The Point* newspaper deputy editor in chief Abba Gibba and reporter Sainey Marenah were summoned by a high court judge presiding over the trial of former inspector general of police Ensa Badjie following publication in *The Point* of a report headlined "My Client Was Tortured to Obtain Statement." The article quoted defense lawyer Borry Touray as saying in court that his client had told him he was tortured severely by his interrogators before they took his "voluntary" statement. Justice Emmanuel Amadi questioned the journalists over the source of the article, saying no such statement was made in court. However, Touray immediately came to their defense, saying he indeed made the statement in court. They were released immediately.

In February 2009 Pap Saine, coproprietor and managing editor of *The Point*, was arrested and subsequently charged with publishing false information; Saine reported on the transfer of diplomat Lamin Sabi Sanyang from NIA headquarters to Mile 2 Central Prison and on the appointment of former minister Neneh Macdouall-Gaye to an ambassadorship. The high court withdrew the charge in July.

In March 2009 police arrested Halifa Sallah, a former presidential candidate and the publisher of the newspaper *Foroyaa*, for allegedly trying to incite citizens to challenge "a lawful order of the president to screen witches"; Sallah had criticized the government-backed abduction of alleged witches during the year (see section 1.b.). In March 2009 the director of public prosecution announced that all charges were dropped "in the interest of peace and justice."

In June 2009 seven journalists were arrested for their role in the publication of a statement by the Gambia Press Union (GPU) responding to remarks by President Jammeh on the 2004 killing of newspaper publisher Deyda Hydara; the GPU characterized the president's remarks as un-Islamic, inappropriate, and provocative. They added that such statements would not exonerate the government from involvement in the killing. In June 2009 the court charged the journalists with three counts of sedition and seditious publication. In July 2009 the court discharged one of the journalists for lack of evidence. On August 5, the remaining six journalists were convicted on all six counts and sentenced to two years in prison plus a fine of one million dalasi (\$35,714); failure to pay the fine would result in an additional two years' imprisonment. On September 3, the six journalists were released following a pardon by President Jammeh, who said the gesture was in honor of the Muslim month of Ramadan.

In June 2009 reporter Augustine Kanja of *The Point* was arrested at Kanifing court for allegedly taking pictures of the six journalists charged with sedition and defamation. He was released on bail after spending two days in detention and thereafter left the country.

In August 2009 authorities arrested Abdoulie John, the deputy editor in chief and French language columnist of the progovernment *Daily Observer*, on charges of refusing to recognize the appointment of a new managing director of the paper. John was cautioned and released without charge on the same day.

The trial of *Today* proprietor and editor Abdul Hamid Adiamoh, arrested in 2008 following the publication of a story about schoolchildren who skipped classes to salvage scrap metal, continued at year's end; he was charged with publication with seditious intent.

Political activist Fatou Jaw Manneh, a foreign-based Gambian journalist who was convicted in 2008 of sedition, departed the country after her family paid the 250,000 dalasi (\$9,260) fine.

Foreign missionaries David and Rachel Fulton, who in 2008 pled guilty in a magistrate court in Banjul to advocating the violent overthrow of the government, were released from prison during the course of the year after serving a year's sentence in Mile 2 Central Prison. They also paid a fine of 250,000 dalasi (\$9,260) each. Both returned to the United Kingdom. The Fultons were arrested in 2008 for publishing "negative articles" and sending "negative letters" about the country and its government to individuals and organizations.

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 stances.

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 two U.S.-based online newspapers, *Freedom* and *The Gambia Echo*, which were critical of the government and most of its actions. Although many citizens were illiterate and most did not have computers or Internet connections at home, Internet cafes were popular in urban areas. According to International Telecommunication Union statistics for 2008, approximately 6.8 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events

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

b. 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. However, police sometimes refused to issue permits to opposition parties wishing to hold political rallies.

The opposition UDP reported that police did not issue permits for a July 2009 meeting in Serrekunda or an August 2009 meeting in Bakau; the August meeting, however, proceeded without police permission.

For example, on April 1, leading opposition activist Femi Peters was sentenced to one year in prison and fined 10,000 dalasi (\$360) for organizing a political rally and using a loudspeaker without a police permit as required under the Public Order Act. Peters, who was the campaign manager of the UDP, was arrested in October 2009 after the UDP held a rally in Serrekunda without prior police authorization. The opposition said the police were using the issue of a permit to stifle their legitimate right to hold meetings. Peters appealed his conviction; it was dismissed by the court of appeal on August 5.

c. Freedom of Religion

For a discussion of religious freedom, see the Department of State's 2010 *International Religious Freedom Report* at <http://www.state.gov/drl/rls/irf/2010/index.htm>.

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 traveling abroad.

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.

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, but the government has established a system for providing such protection to refugees and 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.

In 2008, consistent with international agreements, the UNHCR terminated the refugee status of Sierra Leoneans who fled during that country's civil war. During the year, the government and UNHCR provided local integration opportunities to the remaining 130 Sierra Leoneans in the country. In 2009 the government also facilitated the voluntary repatriation of 27 Liberian refugees, and another 15 refugees in 2010, leaving an estimated 585 others in the country at year's end.

UNHCR reported 9,100 refugees in the country, of whom approximately 8,300 are Senegalese who fled the Casamance conflict in Senegal. UNHCR provided assistance with basic needs and services and implemented livelihood programs. The country also hosted smaller numbers of refugees from Liberia, Cote d'Ivoire, Togo, and the Democratic Republic of Congo.

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

In 2006 Alhaji Yahya Jammeh was reelected to 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 the results. In the 2007 National Assembly elections, the ruling APRC won 42 of the 48 elected seats, and President Jammeh appointed five nominated members, including the speaker. The presidential and National Assembly elections were declared partially free and fair; irregularities included underage voting, voting by noncitizens, and biased media coverage.

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 generally operated without restriction; however, police sometimes refused to issue permits for opposition parties to hold public meetings (see section 2.b.).

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 three 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 are from the previously marginalized 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 Worldwide Governance Indicators reflected that corruption was a serious problem.

The president spoke against corruption on numerous occasions during the year, and on July 22 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.

During the year the government prosecuted several senior police, military, and civilian officials for corruption. For example, on March 2, former inspector general of police Ensa Badjie, former commander of the military police unit of the army Lieutenant-Colonel Mam Matarr Secka, and Major Kuluteh Manneh were dismissed from their positions; they had been detained on numerous criminal charges including corruption, abuse of office, involvement in drug related crimes and armed robbery. Their trial continued at year's end.

On March 5, another group of four senior officers from the NDEA, including Director General Ebrahim Bun Sanneh; his deputy, Karamo Bojang; and former director of operations Ousman Sanneh, were dismissed and charged with drug-related offenses, corruption, and abuse of office. Their trial continued at year's end.

In November 2009 Lieutenant Colonel Gibril Bojang, former commander of the presidential guard, was convicted on charges of theft and sentenced to two years' imprisonment and a fine of 1,110,086 dalasis (\$41,100). Bojang, who pled as charged, said the money was not used for personal gain but for the welfare of his unit.

In November 2009 six judiciary officials, including judicial secretary Haruna Jaiteh and high court judges Nguie Mboob-Janneh, Amie Saho-Ceesay, and Saffie Njie, were suspended without pay due to allegations of embezzlement of court fines, forfeitures, and auctions. The officials, who also included junior clerks Pa Modou Njie and Momodou L. Sonko, were charged with embezzlement totaling 4,232,000 dalasis (\$157,000). The trial continued at year's end.

Public officials were subject to financial disclosure laws.

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 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 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 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; however, the government offered no response to reports issued after the visits. The government denied prison access to the ICRC during the year.

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 received complaints regarding unlawful dismissals, termination of employment, unfair treatment, and illegal arrest and detention.

On October 3, two prominent gender activists and anti-FGM campaigners were arrested and charged with stealing 30,000 euros (\$40,200) granted by the Spanish nongovernmental organization (NGO) Yolocamba Solidaridad. Dr. Isatou Touray, Executive Director of the NGO Gambia Committee on Traditional Practices Affecting the Lives and Circumstances of Women and Children (GAMCOTRAP), and the agency's Program Coordinator, Mrs. Amie Bojang Sissoho, were denied bail and spent eight days in prison custody before their trial could proceed. The charges of theft were reportedly based on the findings of an investigation panel that looked into GAMCOTRAP's management of the Yolocamba grant. A previous panel set up by the Office of the President in May concluded that the allegations of mismanagement were unfounded. A number of women circumcisers who worked with GAMCOTRAP in its campaign to end FGM were brought in by the authorities to testify. The case was still before the courts at year's end.

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.

Women

The law prohibits rape, but the problem remained despite the stiff penalties imposed by the government. The penalty for rape of an adult is life in prison, and the maximum penalty for attempted rape is seven years' imprisonment.

No statistics are available on the number of rape cases but all incidents reported to the police were diligently prosecuted and in the majority of cases the culprits were convicted. About 10 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.

Domestic violence, including spousal abuse, was a widespread problem; however, it was underreported due to the stigma surrounding such violence. There was no law prohibiting domestic violence; however, cases of domestic violence could be prosecuted under laws prohibiting rape, spousal rape, and assault. There have been no prosecutions because cases of domestic violence are often settled through counseling and dialogue with family elders. There are no shelters or hotlines for victims. One of the leading women's rights NGOs in the country, GAMCOTRAP, has included gender-based violence in its training modules for combating FGM. Police generally considered reports of spousal rape to be domestic issues outside of their jurisdiction.

Prostitution is illegal; however, it was a major problem, particularly in tourist areas. Women were forcibly trafficked for commercial sexual exploitation. The tourism offenses act prohibits sex tourism, which reportedly increased significantly during the year.

The law prohibits sexual harassment and provides for a one-year mandatory prison sentence for offenders; however, sexual harassment remained a problem, although no cases were reported during the year.

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, including HIV. The maternal mortality rate in 2008 was 281 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.

Traditional views of women's roles resulted in limited societal discrimination in education; however, 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 managing a business; however, limited societal discrimination still lingers, and women generally were employed in such pursuits as food vending or subsistence farming. Women's ability to own land was hampered by their low earning power rather than any traditional or cultural practices that prohibit such ownership. Women who own land have the same opportunities to access loans or credit as long as they are willing to offer such property as collateral.

Sharia 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 males. 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

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 are often required at enrollment in schools, but they could easily be obtained.

The constitution and law mandate free, compulsory primary education from ages 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 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, where poverty and cultural factors often led parents to decide against sending their daughters to school. As part of the government's ongoing initiative to increase the numbers of girls in school, the government continued a countrywide program to pay basic school fees for all girls; however, in many regions, both girls and boys were still required to pay for books, lunch, school fund contributions, and exam fees.

The penalty for raping a minor, as with adults, is life imprisonment. However, because of the difficulty of proving rape of minors, particularly very young children, the charge is mostly defilement or having carnal knowledge, both of which carry a prison sentence of 14 years. There were two convictions for rape of a minor during the year: Nfama Saikyhan and Omar Kittan were both sentenced to life imprisonment. There were several other convictions for defilement or having carnal knowledge of a minor: Samba Baldeh, sentenced to 25 years; Abdoulie Bahoum, sentenced to 14 years and ordered to pay compensation of one million dalasi (\$35,714) to the victim; Musa Ceesay, sentenced to 14 years and ordered to pay 100,000 dalasi (\$3,571) compensation; and Davidson Jones and Landing Mboob, both sentenced to 14 years. In Mboob's case, his accomplice, Mansour Manneh, was also sent to prison for 14 years for aiding and abetting a rapist. In August 2009 Musa Sarr was sentenced to life imprisonment for raping a girl.

Authorities generally enforced laws when cases of child abuse or mistreatment were brought to their attention. 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.

In March 2009 Anthony Michael Dobson, a 61-year-old New Zealand national, was convicted of child pornography and sentenced to one year in prison. Dobson was arrested in 2008 and charged with child pornography and defilement of a girl under the age of 16; he was acquitted of the defilement charge. His Gambian accomplice, who was standing trial for procurement, was also acquitted.

Peter Paul Hornberger, a German national who was arrested in 2008 for "indecent assault" on an 11-year-old boy, remained in prison awaiting sentencing at year's end.

The law does not prohibit female genital mutilation (FGM), and the practice remained widespread. A survey by the United Nations Children's Fund conducted in 2005/06 found that approximately 78 percent of girls and 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 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.

In 2009 more than 30 National Assembly members attended a seminar organized by GAMCOTRAP on the harmful effects of FGM. GAMCOTRAP was campaigning for a law banning FGM.

In May 2009 Vice President Isatou Njie-Saidy chaired an international conference calling for an end to FGM.

There are no laws against forced marriage, and in many villages, especially Bajakunda, young girls were forced to marry at a young age.

Children in prostitution worked in some brothels, often to support their families or because they were orphans. The tourist industry stimulated a high level of child prostitution without third party involvement. Children were also trafficked for forced commercial sexual exploitation. Some NGOs also believed that 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, although they seldom turned away such children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual *Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction* at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

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

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at www.state.gov/g/tip.

Persons with Disabilities

The constitution protects persons with disabilities--specifically stating "disabled or handicapped" persons--against exploitation and discrimination, in particular as regards access to health services, education, and employment. The law also provides that in any judicial proceedings in which a disabled person is a party, the procedure shall take into account his or her condition. The Department of Social Welfare is responsible for ensuring that persons with disabilities are not denied these rights. There were no reports of persons with disabilities being involved in any judicial proceedings. The department also worked with international donors to supply wheelchairs to some persons with disabilities. 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. The Department of Social Welfare worked with the Gambia Organization for the Visually Impaired and the School for the Deaf and Blind to help educate handicapped children and to promote relevant skills. There are no laws or specific programs to ensure that persons with disabilities have access to information and communications.

On June 18, police arrested an unknown number of beggars and mentally disabled persons loitering the streets of Banjul. They were loaded onto a police truck and driven away. The government issued no statement; the action is assumed to be a continuation of the government's efforts to end street begging, which it views as a public nuisance. Leaders of the Gambia Federation of the Disabled urged authorities to review their policy regarding persons with disabilities. They were instrumental in obtaining the release of several detained beggars with disabilities.

The media continued to report on the rights of persons with disabilities, and several NGOs sought to improve awareness of these rights, including by 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 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 male that commits in public or private any act of gross indecency, procures another male, or has actual sexual contact with another male; however, to date, no one has been prosecuted. There is no similar law targeting women. Many citizens shunned lesbian, gay, bisexual, and transgender (LGBT) individuals.

In a March 2009 speech before the National Assembly, President Jammeh called homosexual conduct "strange behavior that even God will not tolerate." The president previously described homosexual conduct as a criminal practice and told police to arrest persons practicing homosexual activity and to close motels and hotels that accommodated them. In 2008 the president ordered all LGBT persons to leave the country within 24 hours and threatened to cut off their heads. Despite this statement, there were no reported incidents of physical violence against LGBT individuals. There were no LGBT organizations in the country.

There is strong societal discrimination against LGBT individuals, but officially there are no laws that deny such individuals access to citizenship, employment, housing, education, or healthcare.

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 protected the rights of those at risk of infection. In 2007 the national AIDS secretariat collaborated with the 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 continued during the year as President Jammeh continued his controversial herbal treatment program for the disease. Throughout the year the Ministry of Health urged persons to undergo voluntary HIV/AIDS counseling and testing.

Section 7 Worker Rights

a. The Right of Association

The law provides that workers are free to form associations, including trade unions, without previous authorization or excessive requirements, and workers exercised this right in practice. Military personnel, police officers, and other civil service employees are prohibited from forming unions. Unions must register to be recognized, but there were no cases in which registration was denied to a union that applied. Approximately 20 percent of the work force was employed in the formal wage sector, where unions were most active.

The law allows the right to strike; however, the government interfered with unions' right to strike. The government places restrictions on the right by requiring unions to give the commissioner of labor written notice 14 days before beginning an industrial action (28 days for essential services). 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 they 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 law 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 exemptions 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 forced labor occurred (see section 6). See also the Department of State's annual *Trafficking in Persons Report* at <http://www.state.gov/g/tip/>.

d. Prohibition of Child Labor and Minimum Age for Employment

Child labor was a problem, although the constitution prohibits economic exploitation of children under 16 years of age, and the law prohibits exploitative labor or hazardous employment of children under the age of 18. The Children's Act also 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. Child labor protection does not extend to the performance of customary chores on family farms or petty trading. Child labor in informal sectors is difficult to regulate, and laws implicitly apply only to the formal sector. Rising school fees prohibited many families from sending their children to school, resulting in an increase in child labor. In urban areas some children worked as street vendors, 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. Unlike in previous years, there were almost no reports of Koranic students, known as "almudus," being forced to beg in the streets; teachers who demanded this type of behavior were usually summoned by police and ordered to stop. Children between these ages were also involved in street vending and served as housemaids.

The Department of Labor is 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 law incorporates International Labor Organization provisions outlawing child prostitution and pornography. There were no specific actions by the government to prevent or combat child labor during the year.

e. Acceptable Conditions of Work

The lowest national minimum wage according to law was 19.55 dalasi (\$0.72) per day for unskilled labor, but in practice the minimum wage was 50 dalasi (\$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 also 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 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. 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 that employers not hire noncitizens in excess of 20 percent of their workforce except in the specialized professional category. The move was designed to encourage employers to train and employ more local citizens.