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2009 Country Reports on Human Rights Practices - The Gambia

Bureau of Democracy, Human Rights, and Labor
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The Gambia is a multiparty, democratic republic with an estimated population of 1.86 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 elections held in 2007, which were also considered partially free and fair. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently.

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.

In March 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.

On April 3, 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. On

October 18, 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, the BBC carried a series of reports on so-called "witchdoctors" from Guinea, who abducted up to 1,000 villagers in the Gambia 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. Officials in the police, army, and the president's personal protection guard reportedly accompanied the Guineans, who were invited into the country after the death of the president's aunt, which was attributed to witchcraft, according to Amnesty International (AI). 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. On May 19, 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 governmental newspaper *The Gambia Daily*.

During an April 6 address to the National Assembly, the attorney general and justice minister denied that journalist "Chief" Ebrima Manneh, who was arrested by security forces in 2006 and subsequently disappeared, was in state custody. This was the government's first statement regarding the June 2008 ruling by the ECOWAS community court of justice that Manneh's detention had been illegal and that the government should release him and pay compensation of 2.7 million dalasi (\$100,000) to Manneh's family. The ruling followed a lawsuit filed in 2007 by the Media Foundation for West Africa (MFWA), based in Ghana. In 2007 Manneh was reportedly sighted seeking medical treatment under police supervision at a hospital in Banjul, but his whereabouts remained unknown at year's end.

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.

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

During his April trial for giving false information to a public officer, former National Assembly member Musa Suso alleged that while serving an earlier 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. On December 11, 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 30, the ECOWAS community court heard the case filed by the MFWA against the government for the 2006 illegal detention and torture of Musa Saidykhan, the editor in chief of the *Independent* newspaper. Saidykhan, who lived 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. During the trial, which was ongoing at year's end, 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. The trial was adjourned until February 2010.

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, there were no known prosecutions in civil or military courts of security force members accused of mistreating individuals during the year. At the closing ceremony of a civil-military relations seminar in 2007, the chief of defense staff publicly announced a zero-tolerance policy for military abuse of civilians, and some reports indicated such abuse may have declined.

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; however, prior to conviction, detainees were allowed to receive outside sources of food.

Prisoners at the Mile 2 Prison died during the year as a result of poor food and inadequate medical care.

On March 6, Benedict Jammeh, the former police inspector general, testified at Musa Suso's trial that inmates at Mile 2 Central Prison were fed with meat that resulted in the deaths of several prisoners; a committee of senior police officers subsequently confirmed the report. On May 8, 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 pain, and food poisoning.

Pretrial detainees were occasionally held together with convicted prisoners. At year's end, there were 780 inmates in the country's prisons.

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 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 actions 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 were often 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 promptly informed 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 that it no longer enforced the decrees; however, there were several 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.

On November 21, security forces arrested former chief of defense Lieutenant General Lang Tombong Tamba and six of his close associates and friends. Those arrested were Brigadier General Omar Bun Mbye, former military director of training and operations; Lieutenant Colonel Kawsu Camara, commander of the military camp in the president's home village of Kanilai; Captain Modou Lamin Bo Badjie, former NIA director general; Commissioner Momodou Gaye, deputy inspector general of police; private businessman and customs clearing agent Alhaji Kebba Touray; and real estate developer Abdoulie Joof. All were held without charge beyond the 72-hour limit. Kebba Touray, who was held at NIA headquarters, was released on December 15; however, the other six detainees remained in Mile 2 Prison without charge at year's end.

On December 30, NIA director Ousman Sowe was fired, 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 January 4, authorities released brothers Lamin Marong and Ebrima Marong, who were arrested in 2008 and held for three months without charge.

Bakary Gassama, the former financial director of the NIA, remained in detention at year's end. In December 2008 Gassama was released after three months in detention for alleged abuse of office, but was immediately rearrested.

During the year Gideon Adeoye, who was arrested in December 2008 for allegedly "spreading false information" about the country's military, was released.

Information surfaced on the incommunicado detention of four citizens. On June 10, Kemo 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 – Alieu Lowe, nephew of the fugitive coup leader and Abdoulie Njie – were still being held at Mile 2 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, was ongoing at year's end.

Backlogs and inefficiency in the justice system resulted in lengthy pretrial detentions. Approximately 30 inmates in the prison system were in pretrial detention, and some had been incarcerated for several years 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. On June 23, 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.

The judicial system consists of the Supreme Court, the Court of Appeal, high courts, and eight magistrate courts. 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.

A judicial complaints board, chaired by the chief justice, heard several complaints during the year; the board deals with administrative, personnel, and case issues. Board members included the attorney general, the interior minister, the inspector general of police, the director general of the NIA, the master of the high court, and the judicial secretary.

Trial Procedures

The constitution and law provide for a fair and public trial, and the judiciary generally enforced this right, although frequent delays and missing or unavailable witnesses, judges, and lawyers often impeded the process. Many cases were also delayed because of adjournments designed to allow the police or NIA time to continue their investigations.

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 courts-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 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, Shari'a, and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Shari'a was 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.

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 May 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. On July 29, 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 was reportedly 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 was also arrested without charge in 2006, remained unknown at year's end. The government denied Manneh was in its custody.

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

One government-owned and nine private radio stations broadcast throughout the country. During most of the year, the government-owned Gambia Radio and Television Services (GRTS) gave limited coverage to opposition activities. GRTS television rebroadcast CNN, while local radio stations rebroadcast the BBC, Radio France Internationale, the Voice of America, and other foreign news reports, 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 February 2, Pap Saine, co-proprietor and managing editor of the independent newspaper 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 Prison and on the appointment of former minister Neneh Macdouall-Gaye to an ambassadorship. The high court withdrew the charge on July 29.

On March 8, police arrested Halifa Sallah, a former presidential candidate and the publisher of the newspaper *Foroyaa*, for allegedly trying to incite people 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.). On March 19, the director of public prosecution announced that all charges were being dropped "in the interest of peace and justice."

On June 15, 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. On June 18, the court charged the journalists with three counts of sedition and seditious publication. On July 27, 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 (\$37,037); 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.

On June 22, reporter Augustine Kanjia of the *Point* newspaper was arrested at Kanifing court for allegedly taking pictures of the six journalists charged with sedition and defamation. On June 24, Kanjia was released on bail.

On August 6, 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 released the same day without charge.

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

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

Foreign missionaries David and Rachel Fulton, who in December 2008 pled guilty in a magistrate court in Banjul to advocating the violent overthrow of the government, remained in jail at year's end serving a one-year sentence with hard labor. The two also were fined 250,000 dalasi (\$9,260) each, or in default to serve a further 18 months in prison. The Fultons had been under surveillance by court order, and were arrested in November 2008 for publishing "negative articles" and sending "negative letters" about the country and its government to individuals and organizations.

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

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

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. 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 denied or 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 26 meeting in Serrekunda or an August 8 meeting in Bakau; the August 8 meeting was conducted without police permission.

On October 24, Femi Peters, the UDP campaign manager, was arrested after his party held a rally in Serrekunda without a police permit. On October 26, Peters appeared in court on charges of "control of procession and control of loudspeakers." Peters refused to make a plea in the absence of his lawyer, and the case was ongoing at year's end.

c. Freedom of Religion

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

Societal Abuses and Discrimination

There were no reports of societal abuse or discrimination based on religious affiliation, belief, or practice.

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

For a more detailed discussion, see the [2009 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, 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 in to 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

The country is a party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol but maintains reservations on clauses regarding a number of refugee rights, including the right to work. It is also a party to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. 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 December 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 approximately 6,500 Sierra Leoneans remaining in the country. The government also facilitated the voluntary repatriation of 27 Liberian refugees.

Approximately 6,200 Senegalese refugees remained in the country during the year, pending conclusion of the Casamance conflict in Senegal. The UNHCR provided assistance with basic needs and services and implemented livelihoods programs.

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 for a third term as president, winning

approximately 67 percent of the vote. The main opposition political party, the UDP, challenged the election results; however, the courts upheld the election 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 five women in the 18-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 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 often spoke against corruption, and leading political and administrative figures faced harsh sentences on charges of corruption and wrongdoing. The financial intelligence unit, which was established during the year, is responsible for combating corruption.

During the year the government prosecuted some officials accused of corruption. For example, on November 6, 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.

On November 4, 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 on 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 was ongoing 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.

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

Domestic violence, including spousal abuse, was a widespread problem; however, it was underreported due to the stigma surrounding such violence. There was no law prohibiting domestic violence; however, cases of domestic violence could be prosecuted under laws prohibiting rape, spousal rape, and assault. 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. 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 occurred.

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.

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 extensive 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, women generally were employed in such pursuits as food vending or subsistence farming.

Shari'a law is applied in marriage, divorce, and inheritance issues 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. 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.

The constitution and law mandate free, compulsory primary education from age six to 12, but the inadequate infrastructure prevented effective compulsory education, and children paid fees to attend school. During the year the government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in the Islamic schools, called "madrassas." Girls constituted approximately 51 percent of primary school students and an estimated one-third of high school students. The enrollment of girls was low in rural areas, 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.

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.

On March 21, 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 August 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 acquitted.

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

The law does not prohibit FGM, and the practice remained widespread. Between 60 and 90 percent of women have undergone FGM, and seven of the nine major ethnic groups reportedly practiced it at ages varying from shortly after birth until age 16. FGM was less frequent among the educated and urban groups. Some religious leaders publicly defended the practice. There were unconfirmed reports of 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.

On September 29, more than 30 National Assembly members attended a seminar organized by the NGO Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP) on the harmful effects of FGM. GAMCOTRAP said

it was campaigning for a law banning FGM.

In May 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. 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 required to turn away all minors who approached the main resort areas without a genuine reason, although they seldom turned away such children.

Trafficking in Persons

The law prohibits trafficking in persons for all purposes; however, persons were trafficked to, from, through, and within the country. The government considered trafficking to be a serious problem.

Due to its porous borders, the country was a destination for victims internationally trafficked from West African countries, mainly Senegal, Sierra Leone, Liberia, Ghana, Nigeria, Guinea Bissau, Guinea, and Benin. Trafficking victims often were found in the greater Banjul area and were used as street sellers, domestics, and sex workers. The country was also a point of origin and transit for West African trafficking victims destined for Europe.

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

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

The government's trafficking taskforce, which included representatives from government agencies, the UN Children's Fund, the National Assembly, and the NGO Child Protection Alliance finalized a national action plan for combating trafficking in persons in December 2008.

The Trafficking in Persons Act provides for a national antitrafficking agency; however, it had not been established by year's end. A dedicated officer for trafficking issues continued to operate at the Department of Justice, and the Department of Health and Social Welfare maintained a trafficking division. NGOs were active in raising awareness about trafficking.

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

Persons with Disabilities

Although the constitution protects persons with disabilities against exploitation and discrimination, no government agency is directly responsible for protecting persons with disabilities. The Department of Health and Social Welfare dealt mainly with supplying some persons with disabilities with wheelchairs received from international donors. 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 government continued to remove many persons with disabilities from the streets in an effort to end street begging, which it viewed 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 voting day.

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. Many citizens shunned lesbian, gay, bisexual, and transgender (LGBT) individuals.

In a March 27 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 May 2008 the president ordered all LGBT persons to leave the country within 24 hours and threatened to cut off their heads. 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 provides for care, treatment, and support to persons living with, or affected by HIV/AIDS. The plan also protects 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 was ongoing during the year as President Jammeh continued his controversial herbal treatment program for the virus. 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 and police officers, as well as other civil service employees, were 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 modern wage sector, where unions were most active.

The government interfered with unions' right to strike. The law allows for the right to strike, but it places restrictions on the right by requiring unions to give the

commissioner of labor 14 days written notice 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, are 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 women and children were trafficked for forced commercial sexual exploitation (see section 6.).

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 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. The tourist industry stimulated a high level of child prostitution. Other sectors where children between the ages of 14 and 17 were known to work include carpentry, sewing, masonry, plumbing, tailoring, and auto 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.

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.

e. Acceptable Conditions of Work

Minimum wages and working hours are established by law through six joint industrial councils, composed of representatives from labor, management, and the government. The lowest minimum wage according to law was 19.55 dalasi (\$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 on excessive compulsory overtime. A 30-minute lunch break is mandated. Government employees are entitled to one month of paid annual leave after one year of service. Most government employees were not paid overtime. However, government workers holding temporary positions and private sector workers received overtime calculated per hour. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service. There was no exception for foreign or migrant workers.

The law specifies safety equipment that an employer must provide to employees working in designated occupations. The law also authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. Enforcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the labor department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice authorities did not effectively enforce this right.

The law protects foreign workers employed by the government; however, it only provides protection for privately employed foreigners if they have a currently valid work permit. On April 3, the National Assembly passed an amendment to the payroll tax act, which requires 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.
