



13 May 2020

Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the Republic of the Gambia and welcome the constructive engagement of your Government during the 34<sup>th</sup> session of the UPR Working Group in November 2019.

As the final outcome report on the review of the Gambia has been recently adopted by the Human Rights Council at its 43<sup>rd</sup> session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of the Gambia – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 86 delegations and the presentation made and responses provided by the delegation of the Gambia. I have also considered the actions taken by the Government to implement 93 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

Positive note is taken of the Government's commitment to improve the country's constitutional, legal and institutional framework in various governance areas in order to consolidate democracy and align the entire governance architecture with international justice and human rights standards, as indicated by the delegation of the Gambia during the review.

It is also noted with appreciation that the Gambia has expressed its support for 207 of the 222 recommendations received during the third cycle and that the Government would continue to work towards supporting 15 recommendations that have been noted, with the full support of the international community and my Office.

I also encourage the Gambia to establish a national mechanism for comprehensive reporting and follow-up on recommendations received from all international and regional human rights mechanisms and on treaty obligations, while linking these to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:

[http://www.ohchr.org/Documents/Publications/HR\\_PUB\\_16\\_1\\_NMRF\\_PracticalGuide.pdf](http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf).

His Excellency  
Dr. Mamadou Tangara  
Minister of Foreign Affairs, International Cooperation  
and Gambians Abroad  
Republic of the Gambia

Kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can positively contribute to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage the Gambia to consider submitting a mid-term report on follow-up to the third cycle of the review, by 2022.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *“The Human Rights Council’s universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council’s recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals.”*

Finally, kindly allow me to use this opportunity to express my Office’s profound solidarity with your country and all Member States in connection with the negative impact of the COVID-19 pandemic. I hope that despite unprecedented challenges it will soon be over in all countries worldwide, including through implementation of human rights based approaches to our collective response to the pandemic. I look forward to discussing with you ways in which my Office may assist the Gambia in relation to the areas identified in this letter and its annex.

Please accept, Excellency, the assurances of my highest consideration.



Michelle Bachelet  
High Commissioner for Human Rights

cc: H.E. Mr. Abubacarr M. Tambaou  
Attorney General and Minister of Justice  
Republic of the Gambia

Ms. Seraphine Wakana  
United Nations Resident Coordinator  
Republic of the Gambia

## **Annex**

### **Scope of international obligations and cooperation with international human rights mechanisms and bodies**

- Ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.
- Considering issuing a standing invitation to the Special Procedures mechanism of the Human Rights Council.
- Submitting all outstanding reports to the Treaty Bodies.

### **National human rights framework**

- Completing the constitutional review through an inclusive consultation process.
- Addressing the concerns of the Human Rights Committee and ensuring that all the rights enshrined in the International Covenant on Civil and Political Rights are fully incorporated in the new Constitution.
- Harmonizing legislation with international treaty obligations and repealing or amending all legislation that is incompatible with international human rights standards.
- Strengthening efforts to ensure that the best interest of the child is primary consideration in all legislative, administrative and judicial proceedings and decisions, and integrated in all policies, programmes and projects that are relevant to, and have an impact on, children.
- Revising the Children's Act 2005 to ensure that it covers all areas of the Convention on the Rights of the Child, including child marriage, female genital mutilation and child labour, and ensuring its effective enforcement.
- Addressing concerns about the persistent violations of children's rights arising from tourism activities by, inter alia, adapting the legislative framework to ensure legal accountability of business enterprises, especially those in the tourism industry.
- Accelerating the development and adoption of the national child protection strategy and developing the necessary plans for its implementation.
- Considering introducing an explicit prohibition of enforced disappearances in the Constitution and the Criminal Code.
- Completing the process of enacting the Access to Information Bill.
- Taking the necessary measures to ensure the effective functioning of the National Human Rights Commission, in full compliance with the principles relating to the

status of national institutions for the promotion and protection of human rights (the Paris Principles).

- Implementing vetting procedures in the army, the law enforcement and intelligence sectors, and removing from their positions all those who had any involvement in the massive human rights violations that had occurred between July 1994 and January 2017.

## **Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **A. Cross-cutting issues**

#### *Equality and non-discrimination*

- Providing protection against discrimination, by enacting anti-discrimination legislation, which, inter alia, provides for access to effective and appropriate remedies for victims of discrimination.
- Addressing the concerns arising from the entrenched patriarchal attitudes and gender role stereotypes, and from the legal provisions that discriminate against women in relation to marriage, divorce, inheritance, marital property, adoption, burial and devolution of property on death.

#### *Development, the environment, and business and human rights*

- Intensifying ongoing efforts to combat corruption and related impunity and ensuring that public affairs, in law and in practice, are conducted in a transparent manner.
- Raising the awareness of politicians, members of parliament and government officials of the economic and social costs of corruption, and making judges, prosecutors and the police aware of the need for strict enforcement of the law.

#### *Human rights and counter-terrorism*

- Reviewing the Anti-Terrorism Act of 2002 with a view to addressing the concern that the definition of acts of terrorism provided for in article 2 of the Act fails to differentiate between terrorist crimes and ordinary crimes and, consequently, aligning this definition with international standards.

### **B. Civil and political rights**

#### *Right to life, liberty and security of person*

- Considering abolishing the death penalty.
- Addressing concerns arising from reports of widespread torture, beatings and ill-treatment by the police, security forces and correctional officers, and the failure of the authorities to prosecute alleged perpetrators.

- Addressing the high incidence of enforced disappearance and extrajudicial killings allegedly committed by the security forces during the 22 years under an authoritarian regime that began in July 1994, and the concern that investigations into allegations of enforced disappearance and extrajudicial killings had been impeded due, among other reasons, to the lack of forensic capacity and that the whereabouts of most victims remained unknown.
- Creating a registry for cases of grave human rights violations, including enforced disappearances, committed under the authoritarian regime, and developing a gender-sensitive policy and action plan to provide support and rehabilitation for families of forcibly disappeared persons.
- Ensuring the involvement of the different ethnic groups, non-governmental organizations and relatives of forcibly disappeared persons in the pursuit of truth, justice, reparations and memory.
- Addressing the concern that article 18 of the Constitution and sections 15 (A) and 72 of the Criminal Code allow for wide discretion in the use of force by law enforcement officials, and that section 2 (a) and (b) of the Indemnity Act (as amended in 2001) exonerate all public officials from civil or criminal liability for the exercise of their duties with respect to unlawful assemblies, riotous situations or public emergencies.
- Ensuring that any use of force by law enforcement officials is proportionate and necessary in view of the threat posed, and that lethal force will only be used when absolutely necessary in order to protect life against an immediate threat; and providing regular human rights training to all law enforcement officials, correctional service officers and military personnel, and ensuring that human rights are an integral part of the curricula of their academies or training programmes.
- Ending the widespread practices of child marriage and female genital mutilation, by strengthening the enforcement of the Children's (Amendment) Act of 2016 and the Women's (Amendment) Act of 2015, which criminalize child marriage and female genital mutilation, respectively; and enhancing public awareness, particularly among traditional and religious leaders, of the lifelong negative consequences of such practices.
- Addressing the concern about the harsh and life-threatening conditions in prisons.

*Administration of justice, including impunity, and the rule of law*

- Intensifying ongoing efforts to strengthen the independence and impartiality of the judiciary.
- Reducing the backlog of cases and complete trials within a reasonable time; expanding the provision of legal aid in criminal cases by strengthening the financial and human capacity of the National Agency for Legal Aid, and taking measures to facilitate people's access to justice in rural areas.

- Designing a comprehensive judicial policy to eliminate the barriers faced by women in gaining access to justice; providing them with adequate legal aid; and strengthening efforts to provide training for judges, cadis, prosecutors, police officers and the legal profession on women's rights.
- Taking all measures necessary to ensure that all laws, including customary and sharia laws, are articulated, interpreted and applied in full compliance with the International Covenant on Civil and Political Rights; and intensifying efforts to provide training to all judicial and legal professionals, including judges, prosecutors and lawyers and public officials on the rights enshrined in the Covenant.
- While the establishment of the Truth, Reconciliation and Reparation Commission to address the human rights violations that had occurred between July 1994 and January 2017 has been welcomed, the Gambia must address the concern that some of the provisions of the Truth, Reconciliation and Reparations Commission Act allow amnesty to be granted in certain circumstances, which is not in line with international standards.
- Strengthening the capacity of investigative and prosecutorial authorities to pursue individual cases of enforced disappearance, and ensuring that no one involved in past human rights violations can take part in the search, investigation or prosecution of the alleged perpetrators of enforced disappearances. Additionally, ensuring that criminal investigations and prosecutions are carried out by a specialized and appropriately trained team of investigators, prosecutors and forensic experts, and that the authorities in charge of the investigation have the jurisdictional, logistic and scientific resources necessary to collect and process evidence.
- Addressing the concern that the prosecution of alleged perpetrators of torture under the transitional justice system is inhibited by the absence of torture as a criminal offence in the Criminal Code.

*Fundamental freedoms and the right to participate in public and political life*

- Amending or repealing all laws which unduly restrict the freedom of expression, and finalizing the legislative reform process led by the National Media Law Committee.
- Ensuring that all cases of alleged intimidation of journalists and human rights defenders are promptly, impartially and thoroughly investigated and prosecuted, and that victims are provided with effective remedies.
- Addressing the concern about section 5 of the Public Order Act, which provides that permission is required from the police to hold a peaceful assembly, and considering reviewing the Act.
- Repealing decree No. 81 of 1996, as it prescribes cumbersome registration procedures for non-governmental organizations.

- Creating an enabling environment for women human rights defenders, particularly those working on sexual and reproductive health and rights, who face harassment, attacks, threats and intimidation.
- Taking the necessary measures to ensure equal representation of women and men in all decision-making positions in both the public and private sectors.

#### *Prohibition of all forms of slavery*

- Addressing the concerns in relation to trafficking in persons, including by strengthening the enforcement of relevant legislation, conducting training for judges, prosecutors and all enforcement officials, enhancing the identification of victims and providing them with access to effective remedies.
- Conducting a study on the extent and root causes of trafficking in women and girls.

### **C. Economic, social and cultural rights**

#### *Right to work and to just and favourable conditions of work*

- Strengthening efforts to eliminate segregation in the labour market and promote women's access to the formal sector; ensuring that women in the formal and informal sectors are covered by social protection programmes; and amending the Labour Act (2007) to explicitly include the principle of equal pay for work of equal value, and adopting measures to implement that principle in order to narrow and close the gender wage gap.
- Criminalizing sexual harassment in the workplace.
- Strengthening mechanisms to monitor compliance with the Labour Act and the relevant provisions of the Women's Act by both public and private entities.
- Taking the necessary measures to establish a national minimum wage that is periodically reviewed and setting it at a level sufficient to provide all workers and their families with a decent living.

#### *Right to social security*

- Taking effective measures to increase social security coverage, setting up a social protection floor, and increasing and regularly reviewing the amounts of pensions to ensure an adequate standard of living for recipients and their families.

#### *Right to an adequate standard of living*

- Strengthening efforts to address the high levels of poverty.
- Intensifying efforts to address chronic food insecurity and chronic malnutrition, and taking additional steps to improve agricultural production.

- Ensuring universal access to safe drinking water and to adequate sanitation facilities, particularly in rural areas.

#### *Right to health*

- Improving health services, including through allocating increased resources to the health sector, and ensuring that particular attention is paid to the training of health extension workers and to the provision of adequate medical equipment and supplies to health facilities.
- Increasing efforts to reduce maternal mortality, by ensuring adequate sexual and reproductive health services, including access to antenatal, delivery and postnatal services, and prevention and treatment of anaemia, taking into consideration the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality, drawn up by the Office of the United Nations High Commissioner for Human Rights (A/HRC/21/22); and increasing efforts to prevent and treat HIV/AIDS among women, as well as mother-to-child transmission of HIV, and ensuring the availability of antiretroviral drugs for women living with HIV.
- Ensuring access for women and men and, especially, girls and boys, to quality and evidence-based information and education about sexual and reproductive health and to a wide range of affordable contraceptive methods.

#### *Right to education*

- Addressing concerns about the disparities between rural and urban areas in access to education and the hampering of access to education for refugee children; the hidden costs of education, mainly affecting children belonging to marginalized and disadvantaged groups; the poor school infrastructure, including limited access to water and sanitation facilities, the low quality of learning and teaching materials; and the high dropout rates, especially among girls, reportedly due to child marriage.

### **D. Rights of specific persons or groups**

#### *Women*

- Amending the relevant legislation to ensure that marital rape is explicitly criminalized and adequately sanctioned.
- Ensuring the effective implementation of the Domestic Violence Act and the Sexual Offences Act, by adopting the necessary regulations and guidelines, reinforcing reporting mechanisms, allocating adequate resources, and strengthening the Victims of Violence Advisory Committee.
- Addressing the concerns that women's access to credit remain insufficient and that women's economic empowerment has not been sufficiently mainstreamed within the overall development strategies; and that rural women and girls have limited access to income-generating opportunities, credit, land and other



productive resources, justice, health, education and participation in decision-making processes relating to issues that are of concern to them.

### *Children*

- Taking effective measures to combat and prevent economic exploitation of children, especially child labour in family businesses and in the informal sector.
- Addressing the concern that children born out of wedlock cannot inherit from the estate of their fathers as the “personal law” does not recognize their inheritance rights.
- Eradicating the discrimination faced by girls, children with disabilities, children living in poverty, working children, children in street situations, children living in rural areas and refugee children, as well as lesbian, gay, bisexual, transgender and intersex children and children from lesbian, gay, bisexual, transgender and intersex families.
- Conducting awareness-raising programmes to promote the participation of children in the community and the family.

### *Persons with disabilities*

- Adopting legislation to implement the Convention on the Rights of Persons with Disabilities with a view to ensuring that women and girls with disabilities have effective access to inclusive education, health, justice, employment and participation in political and public life, among other areas.

### *Refugees and asylum seekers*

- Allocating sufficient resources to the Gambia Commission for Refugees to ensure effective management and treatment of refugees and asylum seekers.
- Ensuring that child refugees born in the country or arriving as minors are provided with identification documents to avoid the risk of statelessness.

### *Stateless persons*

- Avoiding statelessness, by ensuring registration at birth and taking the necessary measures to facilitate the registration of all unregistered children.
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