

## Women's rights protection instruments ratified by Gambia:

- **CEDAW:** ratified in 1993
- **CEDAW Protocol:** not signed
- **Maputo Protocol:** ratified in 2005

**Ratify!** Although Gambia has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol), it has not yet ratified the Optional Protocol to CEDAW.

**Respect!** The Coalition of the Campaign remains particularly concerned by the following violations of women's human rights in Gambia: the persistence of discriminatory laws; discrimination within the family; violence against women; unequal access to property, education and employment; under-representation in decision-making positions; and lack of access to health services.

## / Discrimination and violence persist

### IN LAW

Gambia has a plural legal system consisting of legislative, customary and Islamic Sharia law. The three bodies of law create contradictions and inconsistencies and there are many discriminatory provisions in all three sources of law, particularly in the areas of family and property law. Four types of marriages are legally recognised in Gambia: Christian, Muslim, customary and civil marriages.

#### **DISCRIMINATORY PROVISIONS IN STATUTORY LAW INCLUDE:**

**Constitution:** Section 33(5) of the 1997 Constitution explicitly exempts laws on inheritance, marriage, burial, divorce and adoption from the prohibition on gender discrimination.

**Succession laws:** The 1992 Wills Act provides that under testament women cannot receive property over the limits laid down by Sharia law (ie. one third of the estate).

#### **DISCRIMINATORY PROVISIONS IN CUSTOMARY AND RELIGIOUS LAW INCLUDE:**

- Polygamy is authorized under Sharia and customary law and is widely practised.
- Although under the Criminal Code 'defilement' of girls under 16 is a criminal offence, under customary laws girls of 13 years are often married off by their parents, especially in rural areas. In 2009, it was estimated that 39% of women between the ages 15 to 19 were married, widowed, or divorced.
- Under customary law, a wife cannot inherit her husband's property unless she remarries into her husband's family.

- In the event of divorce, under customary law, women often have to return gifts and any dowry paid by the man. Men can re-marry immediately but women have to wait for three months.
- Under Sharia law, the testimony of two women is equal to that of one man.

## **IN PRACTICE**

### **• Violence**

The criminal law prohibits rape, including marital rape, and assault, but there is no law expressly prohibiting domestic violence. Domestic and sexual violence are widespread yet they remain underreported. A culture of silence prevents victims from coming forward and such violence is often considered as a private family matter outside the jurisdiction of law enforcement. There is no law prohibiting sexual harassment.

Female genital mutilation (FGM) is not legally prohibited and remains widespread throughout Gambia. An estimated 70 to 80% of the female population has undergone some form of FGM. Prevalence varies among different ethnic groups (amongst the Mandingoes and the Sarakoles it is estimated that FGM affects 100% of women, amongst the Peuls 90% and amongst the Jolas 65-70%).

Although the Children's Act 2005 and the Trafficking in Persons Act 2007 prohibit all forms of trafficking in persons, and provide for heavy penalties (life imprisonment for trafficking persons under 18 years and minimum 15 years imprisonment for trafficking adults), Gambia remains a country of departure, transit and destination for trafficked persons, particularly women and girls for sexual exploitation. Although the Trafficking in Persons Act provides for a national agency against trafficking to be established, no such body has yet been formed.

### **• Obstacles to access to property**

Although there is no legal provision prohibiting women owning property, traditional and cultural practices, particularly in rural areas, prevent women's access to land (despite women comprising 70% of those working in the agricultural sector). Land in rural areas is usually owned or managed by the head of a household, who is always male.

### **• Obstacles to access to education and employment**

Enrollment of girls in schools is extremely low, especially at secondary and higher levels, and dropout rates are high, in part due to the high number of girls employed as domestic servants and the high prevalence of early marriages, as well as traditional views of women's roles. In 2005, the illiteracy rate for women was estimated at 65.8%.

The participation of women in the labour market is low, especially in the formal sector and in decision-making positions. In 2005, it was estimated that women make up only 4.9% of the formal sector, while they represent 61.9% of the informal sector.

## • Under-representation in political life

Although representation of women in politics has slightly increased, (in particular, in 2007 of 3 women ministers, including the Vice-President of the Republic.), representation remains low. In 2009, there were four women in the 53-seat National Assembly (two elected and two nominated by the president) and six women in the 18-member cabinet, including the vice president.

## The Coalition of the Campaign calls on the authorities of The Gambia to:

- **Reform or repeal all discriminatory legislation** in conformity with CEDAW and the Maputo Protocol.
- **Harmonise civil, religious and customary law**, in conformity with CEDAW and the Maputo Protocol and ensure that where conflicts arise between statutory legal provisions and customary law, the statutory provisions prevail.
- **Strengthen laws and policies to protect women from violence** including by adopting specific legislation criminalising domestic violence, marital rape, FGM and sexual harassment; ensuring the effective prosecution and punishment of perpetrators; establishing a legal aid system to provide assistance to victims; implementing training for all law enforcement personnel; establishing shelters for women victims of violence; and implementing awareness-raising programmes targeting the general population, especially in rural areas.
- **Adopt all necessary measures to reform or eliminate discriminatory cultural practices and stereotypes that discriminate against women**, including through awareness-raising programmes targeting women and men, traditional and community leaders.
- **Eliminate obstacles to the education of girls and women**, including by adopting measures to ensure equal access at all levels of education, to retain girls in school, including pregnant students; and implementing awareness-raising programmes to overcome stereotypes and traditional attitudes.
- **Increase efforts to ensure women's equal access to employment**, including by enacting measures to combat sexual harassment in the workplace, ensuring employment legislation applies to private sector employers and regulating the informal sector.
- **Strengthen efforts to increase women's access to health-care facilities**, to increase knowledge of and access to affordable contraceptive methods, improve sex education and establish family planning services.
- **Take measures to eliminate discrimination against women with respect to ownership of land**, including by raising awareness on land and property rights, especially of rural women, and expanding legal assistance to women wishing to file claims of discrimination.
- **Ratify the Optional Protocol to CEDAW.**
- **Implement all recommendations issued by the CEDAW Committee**, in July 2005.

## • Obstacles to access to health

Despite the provision of free maternal health care services in government-run hospitals, maternal mortality is high (690 per 100,000 births) as a result of the lack of access to prenatal and post-natal care and the large numbers of teenage pregnancies arising from early marriages.

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### PRINCIPAL SOURCES

- Focal Point: FLAG
- Recommendations of the CEDAW Committee, July 2005
- FIDH, Note on the situation of Women in Gambia, 2005
- UPR, Summary of stakeholders information, 2010, [www.ohchr.org](http://www.ohchr.org)
- Wikigender, [www.wikigender.org](http://www.wikigender.org)

**For more information on women's rights and the actions of the campaign in Gambia, see: [www.africa4womensrights.org](http://www.africa4womensrights.org)**

### THE CAMPAIGN FOCAL POINT IN GAMBIA

#### **The Female Lawyers Association of Gambia (FLAG)**



The Female Lawyers Association of Gambia (FLAG) is an NGO which aims to contribute to the protection of the rights of women and children in the Gambia. FLAG's objectives are to eliminate violence, promote freedom of expression and educate women to enable them to participate effectively in the development process of the country. FLAG'S main activities include providing legal assistance, advocacy and awareness-raising campaigns.

[www.flag.gm](http://www.flag.gm)