

GAMBIA

Under article 28 of the 1997 Constitution (amended in 2002), women in Gambia are accorded equal rights with men.¹ Gambia ratified the Convention on All Forms of Discrimination against Women (CEDAW) in 1993 but has not ratified the Optional Protocol on violence against women.² The country has also ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.³ A National Policy for the Advancement of Women was put in place in 1999, and the National Women's Council advises the government on all matters pertaining to women's rights.⁴ The 2010-2020 National Gender and Women Empowerment Policy was recently approved by the cabinet and focuses on the critical areas of concern as outlined by the Beijing Platform for Action, including poverty reduction, women's empowerment, education, and human rights and governance, among others.⁵

1. Discriminatory family code

While women are accorded protection from gender-based discrimination under the Constitution, exception from prohibition of discrimination on the grounds of gender remains in the areas of adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law.⁶ With specific regard to family law, there are three different legal systems in operation in Gambia, all recognised under the Constitution: civil, customary and Sharia.⁷ The majority of the population (over 90%) are Muslim, and hence, come under the jurisdiction of Sharia and customary law.⁸ Most marriages are not registered as they often occur in mosques and churches and are unlikely to be registered by the Ministry of Justice. Marriages are typically registered only when couples wish to travel outside the country or apply for a social security housing scheme.⁹

The Women's Act, passed in 2010, calls on political parties, the government and the private sector to enact measures to ensure gender equality. The Act does not, however, regulate family matters for the Muslim population, and thus issues of marriage, widow inheritance, polygamy, divorce, child custody and women's rights to inheritance remain subject to customary and Sharia law. The Act does, however, ensure the continued

¹ Constitution of the Republic of the Gambia (1997 [2002])

² United Nations Human Rights (n.d.)

³ African Union (2010)

⁴ CEDAW (2003), pp. 12, 8

⁵ African Development Bank (2011), p. 10

⁶ Constitution of the Republic of the Gambia (1997 [2002]), Section 33 (5); CEDAW (2005), p. 124

⁷ African Development Bank (2011), p. 37

⁸ US Department of State (2012); African Development Bank (2011), p. 37

⁹ UNECA (n.d.), p. 3

education of girls who have married and have had children at very young ages, prohibiting their expulsion from school for these motives.¹⁰

Concerning the **legal age of marriage**, the 2005 Children’s Act prohibits marriage and betrothal to anyone under the age of 18. The 1997 Constitution states that all marriages shall be based on the free and full consent of the intended parties.¹¹ It is, however, not unusual for women to be forced into marriage at young ages;¹² no specific law addresses forced marriage. Under customary law, however, many girls are married between the ages of 12 and 17.¹³ Most cases of **early or forced marriage** go unreported as they are viewed as private and not considered wrong.¹⁴ Multi-Indicator Cluster Survey (MICS4) data from 2010 indicates that 8.6% of women were married before the age of 15, and 46.5% of women were married before the age of 18.¹⁵ Data shows that 25% of women between the ages of 15 and 19 were married, divorced or widowed.¹⁶

Under civil law, women and men have equal **parental rights**, with custody of children in the event of **divorce** being assigned to either parent according to the best interests of the child.¹⁷ In customary and Muslim marriages, custody is determined by the courts on the basis of personal law. Cadi courts, which have jurisdiction to apply Sharia in matters of marriage, divorce and child custody, will often grant the mother custody of young children who are then transferred to the custody of the father upon attaining a certain age, determined by the court.¹⁸

Women’s rights in regard to **inheritance** depend on the law applied. Sharia provides for detailed and complex calculations of inheritance shares, whereby women may inherit from their father, mother, husband or children and, under certain conditions, from other family members.¹⁹ However, their shares are generally only half of that to which men are entitled.²⁰ Although now somewhat dated (more current information is not available), the 2003 CEDAW report explains that the law of inheritance permits husbands, if they so choose, to will away all property and leave nothing for their wives and children.²¹ Gambian law offers no protection to women in such cases.²² Under customary law, wives are not entitled to the property of their husband unless – and until – they agree to let themselves be inherited by the husband’s family.²³ In effect, such women are treated as a form of property to be inherited along with the rest of their husbands’ assets. In some areas, however, women can inherit land from their mothers, and leave it in turn to their daughters.²⁴

¹⁰ Africa Development Bank (2011), p. 37

¹¹ CEDAW (2003) pp. 14, 42

¹² UNDAF (2011), p. 3

¹³ ACERWC (2013), p. 5

¹⁴ UNDAF (2011), p. 3

¹⁵ GBOS – MICS4 (2011), p. 160

¹⁶ OECD (2014), *Gender, Institutions and Development Database*, <http://stats.oecd.org>

¹⁷ CEDAW (2003), p. 44

¹⁸ United Nations Convention on the Rights of the Child, CRC (2000)

¹⁹ CIAM (2010), p. 25

²⁰ CIAM (2010), p. 25

²¹ CEDAW (2003), p. 44

²² CEDAW (2003), p. 44

²³ CEDAW (2003), p. 44

²⁴ FAO (n.d.)

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Polygamy is permissible under Sharia and is relatively common.²⁵ The MICS4 reports that in 2010, 40.7% of women aged 15-49 were in a polygamous marriage or union.²⁶ Muslim men may take up to four wives. Wives whose husbands enter a second or subsequent marriage have the option to divorce, but they have no legal right to receive advance notice regarding the husband's intentions to take another wife or to give their approval.²⁷

Women can **initiate divorce** under common law but not under Sharia law.²⁸ Husbands generally have an advantage in the allocation of assets and child custody.²⁹ Under customary law, women often have to return gifts or any dowry provide by the husband. While men may divorce through repudiation and re-marry immediately, women do not possess this right and are obliged to wait for a period of three months.³⁰

The MICS4 survey reports that in 2010, the **adolescent fertility rate** for women aged 15-19 was 118 births per thousand women, up slightly from 103.9 in 2000,³¹ 19.1% of women aged 15-19 had begun childbearing.³²

2. Restricted physical integrity

Domestic violence is thought to be a widespread problem that goes underreported due to a culture of silence that considers it to be a private family matter outside of the jurisdiction of law enforcement.³³ There is no law that expressly prohibits domestic violence.

There is only one government-run shelter which caters to persons in need of safety or women threatened in their homes, and police officers are not equipped to respond adequately to victims of gender-based violence.³⁴ The victims themselves often withdraw cases due to family pressures.³⁵

Attitudes towards domestic violence play a strong role in the persistence of this phenomenon; many consider gender-based violence as "normal," and as such do not seek legal redress.³⁶ Data from the 2010 Multi-Indicator Cluster Survey (MICS4) report that 75% of women in Gambia believe their husband or partner is justified in hitting or beating them for at least one of the reasons listed (e.g. neglecting the children, going out without his permission, arguing with him, refusing sex or burning the food).³⁷

Criminal law prohibits **rape**, including marital rape and assault, and is considered grounds for divorce under civil law.³⁸ Like domestic violence, rape is often considered to be a private family affair and as such few cases are reported and recorded.³⁹

²⁵ US State Department (2012), p. 20

²⁶ GBOS – MICS4 (2011), p. 160

²⁷ CIAM (2010), p. 176

²⁸ Purdy (2013), p. 483

²⁹ Purdy (2013), p. 484

³⁰ Purdy (2013), p. 484

³¹ GBOS – MICS4 (2011), p. 104

³² GBOS – MICS4 (2011), p. 105

³³ US State Department (2012), p. 18

³⁴ African Development Bank (2011), p. 35

³⁵ African Development Bank (2011), p. 35

³⁶ African Development Bank (2011), p. 35

³⁷ GBOS – MICS4 (2011), p. 169

³⁸ US State Department (2012), p. 18

³⁹ African Development Bank (2011), p. 34

The Women's Act of 2010 states that the government will take all appropriate measures to protect women, especially female children, from all forms of abuse, including **sexual harassment** in schools, and to provide counselling and rehabilitation services to victims of sexual harassment. However, there is no specific law addressing sexual harassment.

Female genital mutilation (FGM) is not prohibited under Gambia law, and the practice remains widespread although there are signs of decline. The MICS4 reports that 73.6% of women in Gambia (aged 15-49) have experienced some form of FGM (compared to the 78.3% reported in the 2005-06 MICS).⁴⁰ In addition, 42.4% of women declared that at least one of their daughters (aged 0-14) had undergone FGM (compared to 64.3% in 2005-06).⁴¹ In terms of attitudes towards this practice, 64.2% of women believed the practice should be continued.⁴² In the 1990s, the government publicly supported campaigns run by NGOs to eradicate the practice, but more recently, women's rights NGOs working to eradicate FGM have faced threats and intimidation, the government has prohibited the dissemination of anti-FGM messages in the state media, and the president's spiritual advisor has spoken out in favour of the practice.⁴³

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Contraceptive use appears to be low in Gambia. Preliminary results from the 2013 Demographic and Health Survey (DHS) report that only 8% of currently married women used a modern form of contraception.⁴⁴ The African Development Bank reports the results of research which shows that husbands and wives do not always discuss how many children to have or how to space them, nor do they necessarily agree when the matter is discussed.⁴⁵

Abortion is only legal in Gambia on certain grounds, such as to save a woman's life or preserve her mental health.⁴⁶

3. Son bias

The male/female **sex ratio** for the working age population (15-64) 2013 is 0.96 and the sex ratio at birth is 1.03.⁴⁷ There is evidence to suggest that Gambia is a country of low concern in relation to **missing women** due to elevated child sex ratios.

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Children who live in the poorest households and in rural areas are those most likely to be engaged in labour, and those who are burdened with **household chores** are overwhelmingly girls.⁴⁸

Efforts have been made to increase equality between boys and girls, both with the Children's Act of 2005 and the provision of free State primary **schools**. Millennium Development Goal 3 on gender parity at the primary

⁴⁰ GBOS – MICS4 (2011), p. 164; GBOS – MICS3 (2007)

⁴¹ GBOS – MICS4 (2011), p. 165; GBOS – MICS3 (2007)

⁴² GBOS – MICS4 (2011), p. 167

⁴³ Women Living Under Muslim Law (2010)

⁴⁴ DHS (2013), p. 8

⁴⁵ African Development Bank (2011), p. 25

⁴⁶ Center for Reproductive Rights (2013)

⁴⁷ CIA (2013)

⁴⁸ CIAM (2010), p. 106

level has been achieved, with a gender ratio of 1.06. Yet, gender inequality persists in secondary, tertiary and vocational training levels, where men make up 71% of all enrolments while female dropout rates are high.⁴⁹ Women's literacy levels are very low at 40% (64% for men) and are a barrier to women's economic and social empowerment.⁵⁰

The conditions above would indicate a degree of preference towards sons in regard to access to education, reflecting other forms of discrimination that women and girls face in Gambian society.

Preliminary results for the 2013 Demographic and Health Survey show little or no difference between male and female children in terms of vaccinations, treatment for acute respiratory infection, fever, and diarrhoea, or nutritional status (height and weight).⁵¹

4. Restricted resources and assets

The United Nations Food and Agricultural Organization (FAO) reported in 2009 that while almost 80% of women in Gambia are engaged in the agriculture sector, 30% report receiving cash income compared to 43% of men.⁵² This is partly due to discriminatory practices in **access to land**. The agricultural sector is guided by both the Agriculture and Natural Resources (ANR) Policy (2006-2015), the 2011-2015 Draft Gambia National Agricultural Investment Plan (GNAIP), and the Women's Act of 2010, all of which emphasise the important role of women in agriculture and the need to address women's access to land tenure.⁵³

However, none of the above policies explicitly protects women's rights to control or own land, and women's access to land remains largely governed by customary law.⁵⁴ Under customary practices, women borrow rather than own the land they cultivate from their husbands, their husbands' families or other members of the village.⁵⁵ However, the Lowlands Agricultural Development Programme, which ran from 1997 to 2005, redistributed land to landless farmers, many of whom were women. This programme gave women the right to retain ownership of this land and to pass it on to their children.⁵⁶

The law does not discriminate against women regarding **access to financial services**, but women in Gambia face several obstacles in this area.⁵⁷ For example, most financial institutions will not grant credit unless the applicant has adequate security or collateral: in most cases, they will insist on property in the form of land.⁵⁸ Since access to land is problematic for Gambian women, so is access to credit.⁵⁹ In addition, high interest rates charged by microfinance institutions lessen the positive effect the latter may have on women's livelihoods.⁶⁰ High illiteracy rates among adult Gambian women also hinder their access to more lucrative activities.⁶¹

⁴⁹ African Development Bank (2011), p. 7

⁵⁰ African Development Bank, The Gambia Gender Country Profile, 2011

⁵¹ DHS (2013) pp. 12-14

⁵² FAO (2009), p. 17

⁵³ African Development Bank (2011), p. 18

⁵⁴ African Development Bank (2011), p. 20

⁵⁵ FAO (n.d.)

⁵⁶ IFAD (2009), p. 2

⁵⁷ CIAM (2010), p. 25

⁵⁸ US State Department (2012), p. 19

⁵⁹ African Development Bank (2011), p. 9

⁶⁰ African Development Bank (2011), p. 6

⁶¹ African Development Bank (2011), pp. 13-14

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Relatively few women are directly employed in the **tourism** sector with its focus on the coastal strip. While few of the benefits of tourism stay in the country, the main Gambian beneficiaries are men, both in direct employment and as tourist guides and drivers. Gambia has also gained a reputation as a sex-tourism destination for women, with young men seeking friendship and marriage with female tourists. The majority of Gambian women benefit from tourism only through providing services such as selling fruit, juices and handicrafts. Recently, efforts have been made to open marketing channels for women's horticultural products to hotels and restaurants. Additional investments have to be made to achieve broader-based benefits in the tourism sector.⁶²

5. Restricted civil liberties

Section 28 of the Constitution provides that "women shall have the right to equal treatment with men, including opportunities in political, economic and social activities" and there are no legal restrictions on women's **freedom of movement**.⁶³ Nor are there any laws that prevent women from choosing their own domicile, although under customary and religious practices, a women's domicile is dependent on the wishes of her husband.⁶⁴ In addition, while the freedoms of assembly and association are legally protected, in practice they are significantly constrained by political instability and state intimidation.⁶⁵

In terms of **political voice**, there are no legal restrictions on the right of women to participate in politics, but levels of participation remain relatively low at all levels of government. Prior to 2002, no woman had ever stood for election to the National Assembly, although the president had appointed female parliamentarians.⁶⁶ There are now three women in the 16-member cabinet, including the vice president.⁶⁷ However, only four of the Assembly's 53 seats are held by women (7.6%): two elected and two nominated by the president.⁶⁸

In contrast to the low numbers of women in the formal political arena, there are many women's rights organisations which have been active in campaigning against practices that harm women and girls, such as female genital mutilation and domestic violence. However they, like other civic groups raising awareness on controversial issues, have faced increasing pressure in recent years, including direct threats from the president and arbitrary arrest.⁶⁹

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The **media** operates under considerable restrictions in Gambia, although this does not stop some publications being openly critical of the government.⁷⁰ Journalists face violence and intimidation from the country's security

⁶² BAB, Profil genre de la Gambie, 2011

⁶³ CEDAW (2005), p. 12

⁶⁴ CEDAW (2003), p. 41

⁶⁵ Freedom House (2013)

⁶⁶ CEDAW (2003), p. 15

⁶⁷ US State Department (2012)

⁶⁸ US State Department (2012)

⁶⁹ Freedom House (2013); Women Living Under Muslim Law (2010)

⁷⁰ US Department of State (2012)

forces when they write on matters of which the government disapproves.⁷¹ Amnesty International reported that in 2008, several journalists were detained without charge, and two fled the country.⁷²

The Women's Act of 2010 grants women "a period of 6 months of **maternity leave** with pay, or with compatible social benefits, without the loss of employment, seniority or similar benefit."⁷³

There are no legal restrictions in place limiting women's **access to employment**, but discrimination on the part of employers and women's generally low level of education result in few women securing work in the formal public and private sectors.⁷⁴ The FAO reports that median incomes for men were twice that of women working in the same sector, and men generally have access to more diversified employment possibilities.⁷⁵ In 2011, 72% of women over the age of 15 were considered to be economically active, however this is predominantly in agriculture (where they make up 75% of the workforce), meaning that they are not covered by employment legislation.⁷⁶

⁷¹ Amnesty International (2009), pp. 6, 150-1

⁷² Amnesty International (2009), p. 151

⁷³ Gambia Women's Act (2010), section 20(1)

⁷⁴ African Development Bank (2011), p. 19

⁷⁵ FAO (2008), p. 17

⁷⁶ World Bank (n.d.)

Sources

- ACERWC (2013) Harmonisation of Children's Laws in Gambia. The Africa Child Policy Forum, African Committee of Experts on the Rights and Welfare of the Child, <http://acerwc.org/wp-content/uploads/2012/05/English-ACERWC-Gambia-Harmonisation-of-Laws-on-Children.pdf> (accessed 21 October 2013).
- African Development Bank Group (2011) The Gambia: Country Gender Profile. October 2011. Quality Assurance and Results Department. Gender and Social Development Monitoring Division.
- African Union (2010) 'List of countries which have signed, ratified/acceded to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (as of 27 August 2010), <http://www.africaunion.org/root/au/Documents/Treaties/List/Protocol%20on%20the%20Rights%20of%20Women.pdf> -accessed 26 October 2013).
- Amnesty International (2009) Amnesty International Report 2009, State of the World's Human Rights, London: Amnesty International.
- CEDAW (2003) CEDAW/ C/GMB/1-3. Consideration of reports submitted by States parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. Combined initial, second and third periodic reports of States parties, Convention on the Elimination of All Forms of Discrimination against Women, Gambia.
- CEDAW (2005) General Assembly Official Records Sixtieth Session. Supplement No.38 (A/60/38). Convention on the Elimination of All Forms of Discrimination against Women, United Nations, New York.
- Center for Reproductive Rights (2013) The World's Abortion Laws Map 2013 Update, http://reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap_Factsheet_2013.pdf (accessed 11 June 2014).
- CIA (2013) The World Factbook: Sex Ratio, Central Intelligence Agency, <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html> (accessed 24 October 2013).
- CIA (2013) The World Factbook: The Gambia, online edition, Central Intelligence Agency Washington, DC, <https://www.cia.gov/library/publications/the-world-factbook/geos/ga.html#top> (accessed 26 October 2013).
- CIAM Public Health Research and Development Center (2010) Situation Analysis of Children and Women in the Gambia. Kanifing, Gambia, <http://www.ciam.gm/repository/index-by-article-title> (accessed 22 October 2013).
- FAO (n.d.) 'Gender and Land Rights Database: Gambia', Food and Agricultural Organization <http://www.fao.org/gender/landrights/report/> (accessed 24 October 2013).
- FAO (2008) Republic of the Gambia. Initiative on Soaring Food Prices. Final Report Situation Assessment and Country Action Plan, Food and Agricultural Organization.
- FAO (2009) Republic of The Gambia. Initiative on Soaring Food Prices. Final Report Situation Assessment and Country Action Plan, Food and Agricultural Organization.
- Freedom House (2013) Freedom in the World Country Reports: The Gambia, online edition, <http://www.freedomhouse.org/report/freedom-world/2013/gambia> (accessed 24 October 2013).

GBOS - MICS3 (2007) The Gambia Multiple Indicator Cluster Survey 2005/2006 Report, Banjul, Gambia Bureau of Statistics, http://www.childinfo.org/mics3_surveys.html (accessed 22 October 2013).

GBOS - MICS4 (2011) The Gambia Multiple Indicator Cluster Survey 2010, Final Report. Banjul, Gambia Bureau of Statistics (GBOS), Gambia, http://www.childinfo.org/mics4_surveys.html (accessed 22 October 2013).

Government of Gambia (1997 [2002]) 'Constitution of the Republic of the Gambia, 1997, reprinted 2002.

IFAD (2009) 'The Gambia: land for labour', International Fund for Agricultural Development, Rome, http://www.ifad.org/english/water/innowat/cases/2_Gambia.pdf (accessed 25 October 2013).

Purdy, Elizabeth Rholetter (2013) "Gambia" Cultural Sociology of Divorce: An Encyclopedia. Ed. Robert E. Emery. Sage Publications, pp. 482-484.

United Nations Convention on the Rights of the Child, CRC (2000) Consideration of Reports Submitted by States Parties Under Article 44 of the Convention Initial reports of States parties due in 1992: Gambia, Committee on the Rights of the Child, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx (accessed 13 December 2013).

UNDAF (2011) UNDAF 2012-2016 The Gambia. The United Nations System in Gambia. The Government of Gambia, United Nations Development Assistance Framework <http://www.gm.undp.org/UNDAF%20Final%203Oct.2011.pdf> (accessed 21 October 2013).

UNECA (n.d.) Status of Civil Registration and Vital Statistics in the Republic of the Gambia, United Nations Economic Commission for Africa http://www.uneca.org/sites/default/files/page_attachments/crmc_status_of_crvs_in_gambia.pdf (accessed 13 December 2013).

United Nations Human Rights (n.d.) Ratification status by country or by treaty, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?Treaty=CEDAW&Lang=en (accessed 26 October 2013).

US Department of State (2012) '2012 Country Reports on Human Rights: The Gambia', <http://www.state.gov/documents/organization/204335.pdf> (accessed 19 October 2013).

Women's Act (2010) Gambia. Office of the Vice President and Ministry of Women Affairs, Gambia.

Women Living Under Muslim Laws (WLUML) (2010) 'Gambia: Women's rights defenders Isatou Touray and Amie Bojang-Sissoho arrested and detained', <http://www.wluml.org/node/6707> (accessed 23 October 2013).

World Bank (n.d.) 'Data: Labor participation rate, female (% of female population ages15+)', <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS> (accessed 25 October 2013).

World Bank (2013) 'Data: Gambia', <http://data.worldbank.org/country/gambia> (accessed 25 October 2013).