

QUICK GUIDE TO ADDRESS WOMEN'S ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON GAMBIA

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- A reference to “gaps”, that is, issues on which the National Report should/could have applied a gender perspective but failed to do so.
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In some cases we have included suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

Issues are highlighted. References from the National Report are *in Italics*.

Recommendations - including those from UN treaty-monitoring bodies, are at the end of the document.

All women’s rights issues (included sexual rights’ issues related specifically to women) are referred to in this Guide. Other sexual rights issues are referred to in the Sexual Rights Guides for each state under review

CEDAW ratified. OP-CEDAW not ratified. Rome Statute ratified. Palermo Protocol ratified.

Gaps

The National Report should/could have applied a gender perspective -that is, make reference to how the issue affects women and men in particular ways- but failed to do so in the following sections: Protection from torture and inhuman treatment (14), Protection of the right to personal liberty (15-19), Freedom of speech (20-23), Other constitutional guarantees (24-28), National Council for Civic Education (42-43), The Prison Service (44), Independent Electoral Commission (47), Department of Social Welfare (48, 60-65), The Gambia Police Force (49-50), The Judiciary (58-59), Right to education (80-83), Right to health (84-85)

ISSUE	N Report	Compilation	Summary
Abortion		Unsafe abortions increase maternal mortality rates (47)	
Early / forced marriage	Naturalized and unreported forced and early marriages (92)		Cause of high rates of illiteracy and maternal mortality (24)
Economic rights/ Right to development	Discrimination in inheritance rights (91)	Deep rooted traditional beliefs and practices obstacle women's economic development. Systemic discrimination (16)	Obstacles to enjoy right to property. Inheritance settled on customary or Shari'a law (7)
Equality and Non discrimination	Non-discrimination based on gender. Gender equality, equal opportunities (8, 66) Women's bill (30)		
Female Genital Mutilation	National campaign to end the practice (71)		Widely practiced. No consistent policies. Lack of legislation to ban FGM (18)

Gender mainstreaming	Sub- Committee on women (35) Organisms for development and welfare of women (45, 46) Support to NGO's working on women issues (70)	Organisms for women's rights (9)	Recent promotion of women's rights addressing education, health and reproductive rights (2)
Harmful traditional practices/ traditional mindsets leading to SR abuses	Domestic violence, FGM, forced marriages are commonest abuses. No specific legislation. Traditional gender stereotyping (90)	Obstacles to women advancement and lead to harmful practices (25) FGM, forced marriage, domestic violence widely practiced (26)	
HIV/AIDS		High vulnerability. Uncertain prospects of achieving MDG (49)	
Laws that discriminate against women	Non-discriminatory provisions hindered by customary and religious law in marriage, property, divorce (89)	Constitution explicitly allows gender discrimination on adoption, marriage, divorce and heritage issues (32)	Constitutional exception on non-discriminatory provisions regarding marriage, divorce, inheritance. Dominance of customary and religious law and practices (6)
Maternal mortality /maternal health	High rates. (93) Challenge of making Reproductive Health service free (104)	Serious high rates (47)	
Participation in public and political life	Representation in government branches (67)	Inadequate participation. Decreased parliamentary representation (40)	
Patriarchal attitudes/stereotypes		Persistence of strong patriarchal attitudes and stereotypes (15)	Gender inequalities in divorce law under Islamic tradition (25)
Polygamy		Widespread practice (33)	Permitted in customary and Islamic law, widely used (24)
Ratification of other treaty bodies		OP-CRC-SC not ratified (1)	
Reproductive health/rights	Reproductive Health Policy (85)		
Rights of girls		Not adequate implementation of non-discrimination principle (18)	
Right to education	Strategies to improve girl's schooling. Gender parity at basic level (79) Free, compulsory basic education (80)	High dropout rates underlying high illiteracy rates, esp. for girls (52)	
Right to work		Unequal gender opportunities and training (41) Unequal participation in public and private sector of employment (42)	
Sexual Violence			Sexual abuse and

			harassment. Police refuse to get involved. (20)
State Institutions/ Plans of Actions	National policy for the advancement of women (68) Programme to enhance capacity decision (69)		
Trafficking of women/ Forced prostitution	Comprehensive legislation. National Agency against Trafficking. Judiciary and police participation (72)		
Violence against Women /Gender Violence			Tolerated by society and government. No legislation to protect victims. Regarded as private matter (19)
Women in prison	Lack of separate holding (86)		

Abortion

The HR Committee expressed concern that the criminalization of abortion, even when pregnancy threatens the life of the mother or results from rape, leads to unsafe abortions, which contributes to a high rate of maternal mortality (Para 47, Compilation)

Domestication of CEDAW / Harmonization with international treaties

See Recommendations, the Committee on the Elimination of Discrimination against Women - CEDAW (3, 30); The 2005 Common Country Assessment -CCA- (3)

Early / forced marriage

() Forced and early marriage () continue to happen. Most cases relating to early or forced marriages are viewed as private and therefore not considered wrong or due to private reasons go unreported and therefore never get to the courts (Para 92, NR)

() Sexual Rights Initiative (SRI) indicated that, although under the Criminal Code "defilement" of girls under 16 is a criminal offence, under customary laws girls as young as 13 years are often married off by their parents, especially in rural areas and when families are living in conditions of extreme poverty. Early marriage is one of the main causes of the high level of female illiteracy and is also associated with high rates of maternal mortality and morbidity (Para 24, Summary)

See Recommendations, the Committee on the Rights of the Child - CRC (18); HR Committee (33); SRI (24)

Economic rights/Right to development

Inheritance in Gambia is a matter of personal and customary law. Inheritance rights of a woman are therefore governed by her personal law which could be Shari'a Law for Muslims or customary law for traditionalists. In the absence of a specific legislation that guarantees women inheritance right many women in The Gambia face discrimination in the area of inheritance (Para 91, NR)

The 2005 Common Country Assessment (CCA) indicated that persistent gender inequity poses a severe obstacle to sustainable socio-economic development. Women are less likely than men to be

in positions of power and decision-making in almost all key occupational positions. As patriarchal societies predominate, the status of women remains low compared to men. The root causes of these gender disparities rest in deeply entrenched traditional beliefs and practices, as well as poverty. The HR Committee expressed its concern about systemic discrimination against women (Para 16, Compilation)

SRI reported that, although the Married Women's Property Act gives married women the right to own their property and an equal capacity to enter into contracts, customs and traditions continue to be a bar to the enjoyment of these rights by married women. Land is usually administered by male family heads. Inheritance matters are usually settled on the basis of customary or Shari'a law, whereby women get a smaller proportion of the property (Para 7, Summary).

See Recommendations, HR Committee (16); SRI (7)

Equality and non-discrimination

() Every person in The Gambia, whatever his or her () gender () or other status, shall be entitled to the fundamental human rights and freedoms () (Para 8, NR). In addition to section 33 of the Constitution which bars discrimination based on gender, section 28 of the Constitution provides that "women shall be accorded full and equal dignity of the person with men" and they "shall have the right to equal treatment with men, including equal opportunities in political, economic and social activities." (Para 66, NR)

The Women's Bill () will be tabled soon before the whole Cabinet and thereafter the National Assembly for enactment into law. It seeks to incorporate and enforce certain aspects of the United Nations Convention on the Elimination of all Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The Bill enjoins the Minister for Health to, in consultation with the National Women's Council set up under the Bill, carryout a periodic review of the government policy on women with a view to bringing it in line with international best practices relating to the protection and enhancement of the rights of women. It also requires all public and private institutions to be guided by the national gender policies, in the formulation and implementation of any policies, initiatives and programmes within their institutions or bodies (Para 30, NR)

Female Genital Mutilation

GAMCOTRAP has also been leading the campaign to end the practice of FGM in the country. As recently as 5th December 2009, as many as sixty (60) circumcisers from three hundred and fifty one communities in the Central River Region and Upper River Region made an open declaration relinquishing the practice of FGM by taking an oath that they would not practice it in their life time again. () Circumcisers who drop their knives are also provided with compensation to engage in adequate employment opportunities (Para 71, NR)

SRI reported that female genital mutilation (FGM) is widely practiced in the Gambia, mostly in the countryside. SRI added that government policies have not been consistent. The broadcast of information against FGM on the state-controlled Radio Gambia and Gambia Television has been prohibited at various times in recent years. SRI also mentioned that the Executive had expressed a veiled threat to the campaigners and that the government has also so far refused to introduce legislation to ban FGM (Para 18, Summary)

See Recommendations, CRC (26); SRI (18)

Gender mainstreaming

The National Assembly plays a very important role in the promotion and protection of human rights. () The sub-committees of the National Assembly includes the select sub-committee on women () , which considers the gender dimensions on issues, policies and Bills brought before it relating to women and children (Para 35, NR). The National Women's Bureau and the National Women's Council were both established in 1980 by the National Women's Council Act. Both institutions report to the Ministry responsible for Women's Affairs. The Council's main mandate is to "advise government on all matters affecting the development and welfare of women and any other matters referred to it by the minister..." () Since its inception the Council and Bureau together with partners and stakeholders have embarked on a number of projects and activities geared towards advocating for the promotion and advancement of the status of women and for gender equity and equality in line with international instruments best practices relating to women (Para 45, NR) Through the Council and the Bureau, the Government has put in place structures such as the Gender Focal Point Network which consists of representatives of key Government Departments and Civil Society Organizations. The network is working towards the formulation and implementation of policies and programmes affecting women. It also works in the areas of advocacy and awareness raising for gender equality and for the advancement of women (Para 26, NR). The Government of The Gambia has been working on creating the enabling environment, especially for human rights organizations working on women issues. Organizations such as the Female Lawyers Association of The Gambia (FLAG) and GAMCOTRAP, for example have also been working on issues on women. FLAG continues to provide legal aid for some women in conflict with the law (Para 70, NR)

The 2005 CCA indicated the emergence of the women legislators caucus in the National Assembly, the National Women's Council, and the National Women's Bureau (Para 9, Compilation) SRI reported that initiatives to promote human rights, and the rights of women in particular, have been made in recent years as set out in the National Policy on the Advancement of Gambian Women, the National Population Policy, and other programmes and policies, which address education, health, and reproductive rights (Para 2, Summary)

Harmful traditional (customary) practices/traditional mindsets leading to SR abuses

Domestic violence, female genital mutilation (FGM) and forced marriages also happen and seem to be one of the commonest human rights abuses against women in The Gambia. Beyond the said constitutional provisions and sections 24 and 25 of the Children's Act that prohibit child marriage and betrothal, there is no legislation specifically criminalizing domestic violence, FGM and forced marriages. Gender disparities are also notable in that women generally have little decision making power and are mainly valued for their reproductive roles. This is due to lack of awareness and traditional gender stereotyping (Para 90, NR).

The 2005 CCA indicated that some socio-cultural beliefs tend to inhibit the advancement of women and lead to harmful practices such as violence against women in various forms and commercial sexual exploitation (Para 25, Compilation). UNICEF noted that social and cultural norms hindered the execution of the 2005 Children's Act, as harmful practices such as () female genital mutilation/cutting, early or forced marriage, domestic violence, were still widely practiced (Para 26, Compilation)

See Recommendations, CEDAW (25); CRC (26)

HIV/AIDS

The 2005 CCA highlighted that women are particularly vulnerable to HIV infection due to socio-cultural factors. UNICEF noted that the prospects of achieving the Millennium Development Goal (MDG) target of halting and reversing the incidence of HIV/AIDS in the Gambia were uncertain (Para 49, Compilation)

See Recommendations, CEDAW (49)

Laws that discriminate against women

The above-named innovative constitutional provisions outlawing discrimination against women is, however, hindered by the constitutional provision relating to the observance and enforcement of personal law in the area of marriage, divorce, and devolution of property at death. These cover matters relating to customary and religious law that affects the lives of over 90% of women in The Gambia (Para 89, NR)

CEDAW expressed concern that the Constitution explicitly exempts from prohibition of discrimination on grounds of gender the areas governing personal status, particularly regarding adoption, marriage, divorce, burial and devolution of property on death. The 2005 CCA indicated that subsection 5 of the Constitution states that women can only seek protection under customary law regarding adoption, marriage divorce and inheritance (Para 32, Compilation)

SRI reported that the Constitution of the Gambia contains wide-ranging provisions on the "Protection of Fundamental Rights and Freedoms", including the right to equality and non-discrimination. However, the Constitution specifically exempts from these provisions laws relating inter alia to marriage, divorce and inheritance. In addition, SRI stated that one of the main factors impeding the effective protection of human rights is the dominance of customary and religious law and a range of traditional, cultural and religious beliefs that perpetuate discriminatory and harmful practices (Para 6, Summary)

See Recommendations, SRI (6)

Maternal mortality/maternal health

() the country has an unacceptably high maternal mortality rate (730/100,000 live births). It is important to note that 30 to 40% of the infant mortality in The Gambia is attributable to infant deaths peri-natally (Para 93, NR). The human resource base of the health sector is still inadequate and needs to be developed. The Government is also working on making Reproductive and Child Health Services free () (Para 104, NR)

CEDAW remained concerned that maternal and infant mortality rates continue to be very high (Para 47, Compilation)

See Recommendations, CEDAW (47)

Participation in public and political life

A directive principle of state policy also enjoins Government to ensure that women are fairly represented in the composition of the Government. In line with this policy the positions of Vice President of the Republic, Speaker of the National Assembly, Minister for Education, President of the Court of Appeal, just to name a few, are all held by women () (Para 67, NR)

The HR Committee was concerned about the inadequate participation of women in political life. A 2009 United Nations Statistics Division source indicated that the proportion of seats held by women in the national parliament decreased from 13.2 per cent in 2006 to 9.4 per cent in 2009 (Para 40, Compilation)

See Recommendations, CEDAW (40)

Patriarchal attitudes/stereotypes

CEDAW was concerned about the persistence of strong patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in society (Para 15,

Compilation). SRI reported that marriages can take place under civil, customary, Christian or Islamic law. Under the predominant Islamic tradition, a man can divorce a woman at any time. Although in theory both parties can be made to pay penalties if the reasons for divorce are perceived to be insubstantial, in practice only women face exacting standards of proof of their reasons for divorce. 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 (Para 25, Summary)

See Recommendations, CEDAW (15); HR Committee (16)

Polygamy

CEDAW expressed concern about the widespread practice of polygamy (Para 33, Compilation) SRI reported that polygamy is permitted in customary and Islamic law, widely used and that in marriages carried out under these traditions, polygamy cannot be challenged in the civil courts (Para 24, Summary)

See Recommendations, HR Committee (33)

Ratification of OP-CEDAW

See Recommendations, CEDAW (2)

Ratification of other treaty bodies

In 2001, CRC noted that the Gambia had signed but not ratified the two Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict (Para 1, Compilation)

See Recommendations, CRC (1)

Reproductive health/rights

The Government has been addressing the health, () by pursuing vigorous policies such as () the Reproductive and Child Health Policy (2007-2014), among others (Para 85, NR)

See Recommendations, CRC (50)

Rights of girls

CRC expressed concern that the principle of non-discrimination was not adequately implemented with respect to certain vulnerable groups of children, especially girls (Para 18, Compilation)

See Recommendations, CRC (18)

Right to education

Girls' education in The Gambia is also given attention through such interventions as the establishment of the renowned Girls' Scholarship Trust Fund to defray the cost of education for the girls and ensuring a safe environment for them in all schools. The President's Empowerment of Girls' Education Project (PEGEP), which provides financial support for girls at the upper basic and senior secondary levels, complements Government sponsorship of needy students. An important outcome of these interventions is that gender parity has now been attained at the basic level and enrolment for girls has soared at both the senior secondary and higher levels. This marks a reversal of previous trends (Para 79, NR). Therefore, in accordance with the Constitution, which states that basic education shall be free and compulsory, the government of the Gambia seeks to attain universal basic education by 2015. (Para 80, NR)

The 2005 CCA noted that high drop out rates are an underlying cause of the high rates of illiteracy, especially for girl children. Many families are still unable to meet education costs and the value of schooling is still perceived differently for boys and girls in some communities (Para 52, Compilation)

See Recommendations, CEDAW (52); CRC (54); The ILO Committee of Experts (53)

Right to work

The 2005 CCA noted that employment opportunities are gender biased in favour of men, particularly in the formal sector. In this sector, education is a prerequisite but the traditional gender roles and cultural norms have contributed to the general low level of education among Gambian women. Women occupy 9.4 per cent of the skilled labour force and 61.9 per cent of the unskilled labour category (Para 41, Compilation). Likewise, the HR Committee was concerned at the inadequate participation of women in public and private sector employment (Para 42, Compilation)

See Recommendations, CEDAW (42); the ILO Committee of Experts (42)

Rural women

See Recommendations, CEDAW (48)

Sexual Violence

() SRI reported that sexual abuse in the home and sexual harassment are believed to be widespread. Rape and assault are crimes under the law but the police tend to consider sexual abuse to be domestic issues outside their jurisdiction (Para 20, Summary)

See Recommendations, CEDAW (25); CRC (26); SRI (20)

State Institutions/Plans of Actions

The National Policy for the Advancement of Gambian Women 1999-2009 was adopted and ratified by the National Assembly in 1999. This policy has helped in strengthening the institutional capacity of the national gender machinery and has taken on board the policy considerations and obligations enshrined in international instruments relating to women (Para 68, NR). To enhance the capacity of women in making decisions, the Women's Bureau successfully implemented the Capacity Enhancement of Women in Decision Making Project funded by UNDP in 2007 (Para 69, NR)

Trafficking of women/Forced prostitution

Trafficking in women is dealt with in the Trafficking in Persons Act of 2007, a comprehensive legislation that seeks to prevent, suppress, and punish those engaged in trafficking in persons, and to rehabilitate and reintegrate victims of trafficking. A National Agency against Trafficking is established under the Act to ensure its implementation. The police in collaboration with other law enforcement agencies and the Judiciary have adopted a zero tolerance stance towards the detection, prosecution and punishment of offenders under the Act (Para 72, NR)

See Recommendations, CEDAW (25)

Violence against Women/Gender Violence

SRI stated that domestic violence against women is reported to be common and largely tolerated by society and government. The police regard this issue as a private matter and there is no

specific legislation to protect victims of domestic violence. Few instances of prosecutions under general assault provisions have been noted (Para 19, Summary)

See Recommendations, CEDAW (25); CRC (26); SRI (19)

Women in prison

The constraints and challenges faced by The Gambia Police Force include () the lack of a separate holding facility for () women offenders (Para 86, NR)

Suggested Questions and Recommendations

CEDAW

- § To ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women () (Para 2, Compilation)
- § To place high priority on completing the incorporation of the Convention in national legislation (Para 3, Compilation)
- § To introduce measures to modify or eliminate negative harmful cultural practices and stereotypes that discriminate against women (Para 15, Compilation)
- § To enact legislation on violence against women, including domestic violence (Para 25, Compilation)
- § To introduce legislation on the prohibition of trafficking; to implement legislation on the exploitation of the prostitution of women and to prosecute offenders and called upon the Gambia to ensure the implementation of the 2003 Tourism Offence Act and to enhance cooperation with tourists' countries of origin aimed at preventing and combating sex tourism (Para 25, Compilation)
- § To ensure that the Convention and related domestic legislation are made an integral part of legal education and the training of judicial officers (Para 30, Compilation)
- § To increase the representation of women in elected and appointed bodies in all areas of public and political life and at all levels (Para 40, Compilation)
- § To ensure equal opportunity for women and men in the labour market through, inter alia, the use of temporary special measures (Para 42, Compilation)
- § To make every effort to decrease (maternal and infant mortality rates) and increase women's access to health services, including health-care facilities and medical assistance.
- § To ensure that rural women and girls have full access to health-care services, education and vocational training, as well as credit facilities and income-generating opportunities. (Para 48, Compilation)
- § The implementation of comprehensive policies and programmes to prevent and combat () HIV/AIDS (Para 49, Compilation)
- § To take measures that reflect the importance of realizing women's and girls' right to education as a fundamental human right, and a means for the empowerment of women. The Committee also encouraged the use of temporary special measures in order to accelerate the improvement of women's and girls' education (Para 52, Compilation)

CRC

- § To ratify the two Optional Protocols to the Convention on the Rights of the Child (Para 1, Compilation)
- § To establish a definition of the child in accordance with article 1 of the Convention; set the legal minimum age for marriage of girls and boys at 18 years; and establish legal minimum ages for compulsory education, employment () (Para 18, Compilation)

- § Taking legislative measures to prohibit all forms of **physical and mental violence** (). It also recommended undertaking studies on domestic violence, ill-treatment and abuse, including **sexual abuse within the family** (Para 26, Compilation)
- § To strengthen adolescent health policies, including **reproductive health education** (Para 50, Compilation)
- § Taking effective measures to make **primary education free**, train teachers, including female teachers, enhance the quality of education and improve the **literacy rate**. It further recommended increasing enrolment in schools by, inter alia, abolishing and/or rationalizing user fees at all levels of the educational system (Para 54, Compilation)

The 2005 CCA

- § The harmonization of existing national laws with various international conventions and protocols, **especially CEDAW, so as to address some of the gender imbalances**. The Government must also ensure that interventions are put in place to implement the recommendations of the CRC and CEDAW Committees (Para 3, Compilation)

HR Committee

- § Taking appropriate measures to ensure that domestic **laws and customary law, as well as certain aspects of the Sharia**, are interpreted and applied in ways compatible with the provisions of the Covenant (Para 16, Compilation)
- § That **polygamy** be discouraged and that laws permitting **early marriages** of boys and girls, at different ages, be amended (Para 33, Compilation)

The ILO Committee of Experts

- § To consider including a specific provision in the new Labour Code providing for **equal remuneration for men and women** for work of equal value (Para 42, Compilation)
- § Asked the Gambia to indicate the measures taken, including their impact, **to promote women's access to education** and a wide variety of vocational training courses, including their participation in training courses primarily attended by men (Para 53, Compilation)

SRI

- § That the government **harmonize existing civil and religious laws and customary practices** with the Gambia's obligations under the international treaties it has ratified. (Para 6, Summary)
- § That the government take measures to ensure that the capacity of a woman to own property is **not restricted on the basis of her marital status or other discriminatory grounds** (Para 7, Summary)
- § That the government take social, educational and legal measures to **eliminate the practice of FGM** and to ensure that victims have access to medical assistance, reparations and psychological support. (Para 18, Summary)
- § That the government take social, educational and legal measures to effectively combat **violence against women in the home** and to ensure that victims have access to reparations, including medical assistance and psychological support (Para 19, Summary)
- § That the government implement social, educational and legal safeguards to **protect women from rape**, and to ensure that women who have been raped receive the full protection of the law (Para 20, Summary)
- § That the government take legal, social and educational measures to eliminate the practice of **forced and early marriages** (Para 24, Summary)