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Note on the situation of Women in Gambia

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General information

Area: 11,300 km².

Population: 1.4 million inhabitants¹, of whom 90% are Muslims and about 10% are Christians (officially this proportion is 5% but this figure is disputed by the churches). Rate of annual demographic growth: 3.4% (4.1% in the 1993 census). The authorities are hoping to achieve a growth rate of 2.2% between 2005 and 2013. Density: 128 inhabitants/km², or one of the highest in Africa. In 2000, 30.7% of the population lived in towns and cities.

Economy: Growth of GNP 1998-99 = 5.2%.
GNP per head in 1999: 340 \$ (1,492 \$ in PPA).

Life expectancy: 55.4 years for women and 52.5 years for men.

¹ In The Gambian government's Beijing + 10 report, according to the preliminary results of the 2003 census.

This note is the result of an international investigation mission, led by Sophie Bessis, deputy Secretary General of the International Federation of Human Rights (FIDH), in The Gambia, from 24 to 29 April 2005. It is an attempt to examine the situation of women in The Gambia to bring to light the discrimination against them.

1. Introduction

The Gambia is a small enclave about forty kilometres wide along the length of the Gambia River, and one of the microstates which exist in Africa by virtue only of the arbitrariness of colonial divisions. A former British colony that gained its independence in 1965, it is land-locked within Senegal, which it almost cuts in half, separating the main Senegalese territory from its Southern province of Casamance. Apart from peanuts, the main wealth of this tiny State that is only separated from its neighbour by recent history, lies in transit trade and smuggling into Senegal.

A close ally of Libya, Yahya Jammeh, the present Head of State who came to power following a coup d'état in 1994, established an authoritarian presidential regime in 1997 responsible for numerous violations of human rights².

Since its independence, little has been done to improve the living conditions of the Gambian population. The Gambia is only ranked at 151st place for human development, and 64% of its population lives below the poverty threshold³. In this country where the indicators of development are weak, those of women are even more so: they are still at the bottom of the ladder in all sectors of the economy and society. According to the UNDP (Report on Human Development, 1998), the global index of human development in The Gambia is 0.350, but it is only 0.277 for women, which shows considerable inequality in treatment between the sexes.

With regard to women's rights, although some progress can be seen especially in the area of education, the Gambian government does not seem prepared to upset a still very conservative legislation invoking the legitimacy of tradition to justify this. The official authorities have, on several occasions since 1997, taken a stand against female genital mutilation (FGM). But the proposals of the president of the republic have often been ambiguous, stating that this practice is part of Gambian culture and that his government cannot prohibit it.

Gambian society is still largely conservative with regard to the status of women. This conservatism gives support for politicians who are nervous about women's rights, by providing an alibi and arguing that the population would not accept an acceleration of reforms. In addition, the spread of fundamentalist religious movements over the last few years has not helped the development of conditions for women. Their growing influence with the authorities and members of parliament has contributed to the lack of legislative progress in The Gambia. All the NGOs working on this issue believe that the religious leaders today are the most opposed to the development of the status of women. It should be noted that Muslim religious education is mandatory in state schools, but not Christian religious education.

There is much official writing regarding actions for improving conditions for women. Many reports extol the ambitious programmes in this sphere. But only rarely do they report actual actions and in general are content to be inspired by action plans drawn up by international

² See Amnesty International Reports 2003 and 2004. RSF: Investigation into the murder of the journalist, Deida Haydara, FIDH communiqués of 21 and 23 December 2004.

³ UNDP: Report on Human Development 2004.

organisations. In addition, they all devote themselves to the priority of “the integration of women into development” without thinking about the necessary development of gender relationships, in other words the redistribution of social roles and of power between the sexes.

2. The social situation and the place of women in the public domain

a. Education

65.8% of adult women are illiterate as against 51.4% of men. The net rate of education of girls in primary school is 70%, as against 76% for boys. The gross rate is 28% in secondary school, against 40% for boys. 37% of secondary pupils are girls. They make up 39% of university students and are in the majority in some subjects such as medicine⁴. Discrimination with regard to education is greater in the countryside than in the towns.

Over the last few years, the government has increased its efforts with regard to girls' education. It has created “girls friendly schools” which encourage the education of girls and a “girls education desk” in the Ministry of national education. It has also established free state primary schools, which has encouraged poor families to educate their daughters. When families do not have the means, they prefer to educate boys, all the more so since girls are indispensable helpers for female domestic work. School age girls are often kept at home to look after the youngest children as well as sharing the important chores of fetching water and wood. In addition, adolescent girls are often kept away from school to be married against their will.

The number of girls in education is also affected by the large number employed as maids in the towns and cities.

Whilst real efforts are being made, it should, however, be noted that the authorities have not taken any steps to ban the practices which prevent the education of girls, such as forced marriages and going into domestic service.

b. Health

Death in pregnancy is still very high with a rate of about 10^{o/oo} which can increase to 16^{o/oo} in rural areas, one of the highest proportions in the world. This rate is explained in part by the huge number of early pregnancies due to the frequency of marriage of girls as soon as they have reached puberty. It is also explained by the high fertility of women, even although this has lessened over the last fifteen years. The fertility index reached 4.7 between 2000 and 2005 against 5.2 in 1995-2000 and 6.5 in 1970-75. This high fertility rate is explained by the infrequent use of contraceptives that in 1995-2000 were taken regularly by only 10% of women.

Public spending on health per head did not increase during the 1990s whilst the demographic growth reached 4% per annum, again one of the highest in the world. The Aids pandemic⁵,

⁴ The Gambian statistics are very mixed, frequently contradictory and inaccurate. However, they give plausible rough estimates. Whenever possible, the figures used have been given by ADB/OECD: Economic Prospects for Africa 2005, and UNDP: World Report on Human Development 2004. For example, according to other government information, the net rate of primary education for the period 1999-2000 was 66% for boys and 56% for girls. In the upper primary classes these rates were respectively 48% and 32%, and in secondary education 21% and 11%.

⁵ The official figures in this respect are greatly under-estimated.

which increasingly affects women, is spreading even faster due to the practice of polygamy, male sexual promiscuity and the total lack of encouraging use of contraceptives thanks to the influence of both Muslim and Christian religious orders. 85% of Aids cases result from unprotected sexual intercourse.

With regard to reproductive health, the rate of contraceptive use has risen from 6.7% in 1990 to 13.4% in 2001. The health consequences of Female Genital Mutilations are by no means insignificant but are hardly ever the subject of specific measures.

Because they are traditionally treated as inferior, women often suffer more than men from nutritional deficiencies, particularly at times when agricultural work is hardest. 73% of pregnant women suffer from slight anaemia and 5% from acute anaemia.

The actual situation of women's health contradicts the very positive information contained in the official Gambian report for the UN Conference on Women Beijing + 10. If medical coverage in the country and caring for reproductive health were as high as the report says, there would be considerably fewer maternal and child health problems, which is not the case.

Unlike the education sector where some progress has been noted, progress with regard to health is slight and the problems specific to women's health are not taken into account. On the contrary, the reluctance to fight harmful traditional practices (see below) shows that this is not a government priority.

c. Women and politics

Since the general election in 2002, 6 of the 50 members of Parliament are women. But 5 of them, including the speaker, are elected members of parliament. The President of the Republic has the privilege of being able to appoint six members of parliament who take their seats in the same way as elected members. In the present government there are ten male ministers and three female ministers, including the Vice-president of the Republic who is also Minister for Women's Issues. Here also, the voluntarism that the government claims to represent has not actually changed the division of power between the sexes.

d. Employment

21% of public sector employees and 32% of employees in the strictly private sector are women. However, even although health and education have begun to take account of women over the last few years, only 17% of managers are women, whilst women make up 79% of unqualified employees.

Generally speaking, women make up 4.9% of the qualified work force and 61.9% of the unqualified work force. On the other hand, men make up 90.6% of the qualified work force and 38.1% of the unqualified work force. Women become increasingly rare as one rises through the ranks. In addition, 70% agricultural workers are women who are responsible for 40% of the total agricultural production, including most of the food production. In view of this information, it is easy to understand that of the two thirds of the Gambian population who are poor, most of these are women.

e. The economy

Women occupy 17% of managerial posts, which is a very small minority that does not in any way correspond to their actual activity nor to their role in wealth production.

In the agricultural sector, which is the main source of wealth after unofficial commercial activities, women produce most of the rice and work, on average, twice as hard as men. Their access, however, to the means of production and to training is negligible, and inequality with regard to land-ownership is the rule in rural areas of The Gambia.

3. Violence against women

a. Female genital mutilation (FGM)

Frequency: 70 to 80% of the female population has been circumcised according to corroborated sources.

Ethnic groups: frequency varies from one ethnic group to another. It is almost 100% amongst the Mandingoes and the Sarakoles and more than 90% amongst the Peuls. It is less frequent amongst the Jolas (65-70%) and very rare amongst the Wolofs (less than 2%). On the religious front, FGM is almost unheard of amongst the Christian population.

Types of FGM: Circumcision is the most frequent form of mutilation. However, there is also infibulation which is carried out on a small percentage of women and girls. In addition, some forms of “obturation” are carried out.

The State, through the Women’s Bureau, conducts public awareness campaigns on the need to put an end to these practices. But it is the NGOs, in particular BAFROW⁶, which are most dynamic in this sphere.

b. Other forms of violence

Early forced marriage is a significant form of violence against women. However, article 27 of the 1997 Constitution provides that marriage should be the product of “complete and equal respect” between men and women and should be entered into voluntarily by men and women of “the requisite age and capacity”.

This is far from the case in reality, all the more so since there is no minimum legal age for marriage. The marriage of children, therefore, is not explicitly prohibited by law.

Lastly, there is no law to punish the frequent cases of domestic violence or sexual harassment.

⁶ BAFROW: Foundation for Research on Women's Health, Productivity and the Environment

4. Laws concerning women

a. Adherence to international conventions

In July 1980, The Gambia signed and, in April 1993, ratified, without reservation, the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

In 1978, The Gambia ratified the International Covenant on Economic, Social and Cultural Rights and, in 1979, it ratified the International Covenant on Civil and Political Rights. It has also ratified the International Convention on the Rights of the Child. On the other hand, it has signed but not ratified the International Convention Against Torture.

With regard to African regional conventions for the protection of human rights, on 8 June 1983, The Gambia ratified the African Charter on Human and People's Rights. More recently, The Gambia also signed the Protocol to the African Charter on Human and People's Rights relating to the rights of women in Africa with reservations concerning marriage and the passing on of nationality. Lastly, on 14 December 2000, The Gambia ratified the African Charter on the Rights and Well-being of the Child.

Generally speaking, The Gambia has not integrated the legislative and legal provisions contained in the conventions it has ratified into its legislation. Its internal law is therefore in complete contradiction to the Convention on the Elimination of All Forms of Discrimination against Women, and especially to those articles concerning family law, in particular marriage and divorce.

b. Internal law and the rights of women

Whereas the 1997 Constitution prohibits any discrimination based on gender, it also explicitly proclaims the need to preserve traditions and customs. It is thanks to this provision that The Gambia has issued significant reservations to most of the international and regional conventions which it has ratified.

Moreover, article 28 of the Constitution recognises the right of women to equality of treatment and opportunity between men and women in social, economic and political spheres, but it makes no mention of equality in law.

With regard to nationality, the 1997 Constitution provides, however, that mothers may pass on Gambian nationality to their children, including those with a foreign father.

In accordance with the Constitution which provides that "customary law forms part of Gambian law", the law of persons is characterised by the co-existence of several legal systems: the codes of the customary law, Islamic law and the so-called modern law co-exist, with Muslim law being the most widespread.

4 types of marriage are recognised in The Gambia:

Christian marriages

Muslim marriages

custom marriages

civil marriages which are not compulsory, as religious or custom marriages are legally recognised.

In many cases, the provisions of the Sharia co-exist alongside the laws of custom, which is an additional handicap for women as the discriminations in both systems apply. The lives of over 90% of Gambian women are subject to the law of the Sharia and/or customary law.

The Ministry of Justice explained to the FIDH mission that “the Sharia is an integral part of our law”. There are three Cadi [Qadi] courts, which correspond to Sharia courts and have jurisdiction over all matters arising out of family law. All discriminations connected with Islamic law are applied to Gambian women: polygamy, inequality as regards succession, divorce at the instigation of the husband except in certain specific cases, inferiority of women in several spheres such as that of legal witness, the testimony of two women being equal to that of one man.

Inequality as regards succession was reinforced by the 1992 Wills Act which provided that the voluntary order of devolution of property cannot exceed the limits laid down by the Sharia, that is 1/3 of the estate. The position is worse under customary law where the widow herself forms part of the estate of her deceased husband. Often, Christian women are no better provided for in as much as the man may freely choose who should inherit his entire property.

With regard to violence against women, the Penal Code does not prohibit FGM and does not provide any specific punishment for this. The Vice-president explained to the FIDH mission that it was “useless” to legislate in this matter as the law could “be counter-productive” and the government’s priority is to convince a population that is still mainly conservative and “hidebound by tradition”. The perpetrators of FGM can, however, be prosecuted by virtue of article 214 of the Penal Code which provides a penalty of imprisonment of up to seven years for the perpetrators of deliberate injuries, and article 210 which stipulates that the perpetrators of child abuse be punished. However, to date no sentence has ever been passed against the perpetrators of FGM.

5. Actions carried out in favour of women

a. by the government

The rare official initiatives concerning the improvement of conditions for women have come from the government in recent years. Parliament, where there are many conservatives who are often close to the religious leaders, for its part is very reluctant to make any changes to the law which could promote the rights of women. And as for the three parties of the official opposition, women’s issues are not a priority for them.

In 1999, the National Assembly nevertheless approved the document “National policy in favour of the advancement of women”. In its document “2020 Vision”, the government also recognised the need to eliminate all forms of discrimination against women and gradually to make its laws compatible with the CEDAW, including legislative acts. However, no actual calendar has been proposed and all the official texts are extremely discreet on the question of changing family law.

The National Council for Women, created in 1980, comprises 44 elected members and 4 appointed members. Its role is to advise the government and make recommendations for the improvement of the status of women. With a staff of 32 people, the Women’s Bureau is the secular arm of the Council and coordinates its activities with those of the Council. The

Council and the Bureau are responsible for “integrating women into the socio-economic development process in The Gambia, as equal partners, participants and beneficiaries”.

b. by foreign partners

Several of The Gambia’s partners finance projects for empowering women. In January 2006, the World Bank will launch an important programme “for the advancement of women and girls” which was officially supposed to increase “the empowerment” of women, in other words their role in decision making in all spheres of activity. This programme was, at first, concentrated on the most disadvantaged districts of the country before spreading, in principle, throughout the whole of The Gambia.

Spain is a significant backer in the fight against FGM.

c. By the NGOs

The main NGO involved in defending women’s rights is BAFROW. This Gambian NGO has been active in fighting FGM since 1991. It is trying to popularise symbolic practices of alternative rites passage to FGM.

The GAMCOTRAP (Gambian Committee on Traditional Practices) is also fighting against FGM.

6. Recommendations

Considering the contents of this note, FIDH would like the Committee on the Elimination of Discrimination against Women to make the following recommendations to the authorities of The Gambia:

- Ratify the international and regional conventions on the protection of human rights, especially the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention Against Torture and Other Cruel, Inhumane or Degrading Punishment or Treatment;
- Lift the reservations to the Protocol to the African Charter on Human and People’s Rights with regard to the rights of women in Africa;
- Incorporate into domestic law the provisions of international convention regarding the protection of human rights which are binding on The Gambia, in particular the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women;
- The Gambia must make its family law comply with its Constitution – which stipulates there should be no discrimination between the sexes – and its international commitments. The constraints on women are aggravated by the multiplicity of family laws. The pre-eminence of customary and religious law over the civil law is a serious factor in the inequality between the sexes,
- The Gambia must take measures, including legislative measures, to put an end to the practice of FGM and establish punishments for the perpetrators. The official campaigns today are not forceful enough to reverse the trend;
- Instigate public awareness campaigns for the prevention of HIV/AIDS;

- The Gambia must take real steps to develop the collective mentality with regard to the position of women and to change the inferior image women have in the media and in school textbooks.

7. Questions

In view of the report by The Gambia presented to the Committee for the Elimination of Discrimination Against Women, the FIDH would like the Committee to ask for the following explanations:

page 7 of the State's report: the National Council for Women

What are the results of the programmes and campaigns conducted by the National Bureau for Women? Are there follow-up mechanisms for these actions?

Have the recommendations of the National Council for Women to the government been published?

Were these recommendations drawn up in conjunction with the civil society and, more particularly, with the NGOs working on the rights of women?

page 7 of the State's report: NGOs

What is the role of TANGO (executive body responsible for coordinating all the activities by NGOs in The Gambia)? Its remit? Its composition?

page 18 of the State's report: marriage, divorce and Muslim law

What action has been taken following the 1987 draft law on the creation and dissolution of marriage?

page 16 of the State's report: temporary measures aimed at establishing equality

Apart from appointing five women to the National Assembly, what other temporary measures to establish equality have been taken by the government? In what spheres?

page 38 of the State's report:

What actions were taken and proposed by the programme of the national food policy (2002-2004) to deal with the problems of women's nutrition? And more particularly for women living in rural areas?

page 39 of the State's report:

Were the results of the inquiry into the frequency of use of methods of contraception and into fertility factors (set up in 2001) published?

page 43 of the State's report:

What has been done to make the public aware in combating FGM and domestic violence?

Appendix

The FIDH mission met the following:

Isatou Njie-Saidy: Vice-president of the Republic of The Gambia and Secretary of State for Women's Issues and for the Population;

Raymond Seck: Minister of Justice;

Sidi Morro Sanneh: Minister for Trade, Industry and Employment;

Ida Faye Hydara: Executive Director of the Women's Bureau;

Janet R. Sallah-Njie: Director of the firm of consultants, Torodo Chambers;

Hannah Forster: Director of the African Centre for Democracy and Human Rights Studies;

Mama Fatima Singhateh: focal point of the National Council for Women;

Pamela Cool: Association of Young Christian Women of The Gambia (Methodist);

Fatamata Waggeh: Director of the NGO BAFROW.