



## U.S. DEPARTMENT of STATE

### Gambia, The

#### Country Reports on Human Rights Practices - [2006](#)

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The Gambia is a multiparty, democratic republic with a population of 1.5 million. On September 22, President Alhaji Yahya Jammeh was re elected for a third five year term in an election considered partially free and fair. President Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC), dominated the National Assembly. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority. On March 21, a coup attempt was uncovered and approximately 50 suspects were detained, 21 of whom remained in detention awaiting or on trial at year's end.

The foiled coup plot resulted in a more restrictive environment, and the government's respect for the human rights of its citizens declined during the year. Although the constitution and law provide for protection of most human rights, there were problems in many areas. Arbitrary arrests and detentions increased, particularly after the discovery of the coup plot. Security forces harassed and mistreated detainees, prisoners, opposition members, journalists, and civilians with impunity. Prisoners were held incommunicado, faced prolonged pretrial detention, and were denied due process. The government infringed on privacy rights and restricted freedom of speech and press. Women experienced violence and discrimination, and female genital mutilation (FGM) remained a problem. Child labor and trafficking in persons also were problems.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no confirmed reports that the government or its agents committed arbitrary or unlawful killings. However, in April there were allegations that the government had executed five detainees in connection with the March coup plot after the government announced that they had escaped while being transferred to a minimum security prison. The government denied the reports, but none of the escapees were seen or heard from during the year. Similarly, the government denied allegations of involvement in the July 2005 case of eight men found dead in the coastal town of Brufut, near Banjul. The victims were later identified as migrant workers from Ghana, Nigeria, and Togo who were trying to make their way to Europe. Government authorities announced that an investigation into the deaths was continuing, although nothing was reported by year's end.

There were no developments in the case of the 2004 killing of journalist Deyda Hydara (see section 2.a.).

###### b. Disappearance

There were reports of politically motivated disappearances during the year.

The whereabouts of five men detained in connection with the March coup attempt remained unknown at year's end; the government claimed that they had escaped custody. (see section 1.a.).

On July 11, police reportedly detained Ebrima Manneh, a journalist for the pro-government Daily Observer, at Sibanor police station; Manneh was not seen again during the year. The government denied that he was being held in custody during the year.

On September 13, Tamba Fofana, a schoolteacher and opposition supporter, reportedly was picked up by soldiers and taken to the police on accusations of "anti-state" activities. He had not been seen again by the end of the year, and the police denied knowledge of his whereabouts. On September 18, security forces allegedly arrested Kanyiba Kanyi, a social worker and supporter of the opposition United Democratic Party (UDP). On October 18, the courts ordered his release, but his whereabouts remained unknown at year's end.

###### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices; however, there were reports that security forces beat and mistreated persons in custody. Following the foiled March coup plot and throughout the year, there were credible reports of torture of detained suspects, including journalists. For example, according to press reports, three military officers detained in connection with the plot, Captain Yaya Darboe,

Captain Bunja Darboe, and 2nd Lieutenant Pharing Sanyang, claimed at their court martial hearings that they had been tortured under interrogation to force their televised confessions. The government did not respond to these allegations.

The Indemnity Act continued to prevent victims from seeking redress in torture cases. The army requested that victims file formal complaints so that cases could be investigated; however, there were no known prosecutions in civil courts of soldiers or security officials accused of beating or otherwise mistreating individuals during the year.

There were no developments in the October 2005 case in which the Police Intervention Unit -a paramilitary wing of the police severely beat workers at a hotel construction site for obstructing a police officer and allegedly helping to free a prisoner. Police arrested seven of the workers and released them on bail 24 hours later.

There were unsubstantiated claims by opposition members that the government continued to conduct training for vigilante groups. These groups, also known as "green boys," were suspected of involvement in past human rights offenses.

#### Prison and Detention Center Conditions

Prison conditions at Mile 2, Janjanbureh, and Jeshwang prisons generally met international standards. The government permitted some visits by independent human rights observers, but they were not allowed to visit detained suspects connected to the foiled coup plot. Local jails were overcrowded, and inmates, including detainees awaiting trial, occasionally slept on the floor. Prison guards were reluctant to intervene in fights between prisoners, which resulted in injuries.

Political prisoners were not held separately from other prisoners.

The government permitted independent monitoring of prison conditions by some local and international human rights groups; however, neither the media nor the International Committee of the Red Cross (ICRC) was granted access to detainees or prisoners during the year.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention; however, there were instances of police and security forces arbitrarily arresting and detaining citizens, especially following the failed coup plot.

#### Role of Police and Security Apparatus

The armed forces are responsible for external defense and report to the secretary of state (minister) for defense, a position held by the president. The police, under the secretary of state for the interior, are responsible for public security. The National Intelligence Agency (NIA), responsible for protecting state security, collecting intelligence, and conducting covert investigations, reports directly to the president. During the year the NIA often assumed police functions such as detaining and questioning criminal suspects. The police generally were corrupt and ineffective. On occasion police acted with impunity and defied court orders.

Many members of the security forces were held without charge in connection to the March coup plot, often beyond the legal 72 hour limit for detention.

In May the police established a human rights and complaints unit tasked with teaching basic human rights knowledge to police and other law enforcement officers and sensitizing them to the need to respect the rights of prisoners and detainees. The unit also receives and addresses complaints of human rights abuses committed by police officers from both civilians and other police officers. During the year the unit received several complaints, and some police officers faced disciplinary actions as a result. The NIA is also authorized to investigate police abuses, although it was not reported that the NIA conducted any such investigations during the year.

#### Arrest and Detention

The law requires that authorities obtain a warrant before arresting a person; in practice individuals often were arrested without a warrant. Periods of detention generally ranged from a few hours to 72 hours, the legal limit after which detainees must be charged or released; however, there were numerous instances of detentions surpassing the limit, particularly in cases related to the March coup plot. There was a functioning bail system; however, on occasion, the courts released accused offenders on bail, while the police or other law enforcement agencies rearrested offenders upon their leaving the court.

Many detainees, particularly those connected to the failed coup plot, were held incommunicado for extended periods during the year. According to an August report by the International Bar Association (IBA), prisoners frequently were not permitted to meet privately with their attorneys. For example, Tamsir Jasseh, who was arrested without charge on March 23 in connection with the March coup attempt, was not provided access to legal counsel for several months, although he had legal representation at his trial by year's end. In addition to the specific concerns raised about these instances of incommunicado detention, the IBA report expressed general concern about the country's judicial environment (see section 1.e.).

The government did not formally revoke military decrees enacted prior to the constitution that give the NIA and the secretary of state for the interior broad power to detain individuals indefinitely without charge "in the interest of national security." These detention decrees are inconsistent with the constitution, but they have not been subject to judicial challenge. The government claimed that it no longer enforced

these decrees; however, there continued to be numerous cases of detentions that exceeded the 72 hour limit beyond which detainees must be charged or released.

Security forces arbitrarily arrested numerous persons for political reasons, and the whereabouts of some of these political detainees, including a journalist and an opposition supporter, were unknown at year's end (see sections 1.b. and 1.e.). The government also arrested and detained opposition members who publicly criticized or who expressed views in disagreement with the government (see section 2.a.). Security officials arbitrarily detained and abused journalists during the year (see section 2.a.).

Security forces arrested approximately 50 persons in connection with the March 21 coup attempt; 24 were released during the year, five allegedly escaped during a prison transfer, and 21 remained in detention at year's end. All but one of the suspects were arrested on March 22 on charges of treason and or concealment of treason; an army officer was arrested on April 14 and was not charged by year's end. Trials of 15 of the 21 detainees, 10 soldiers, and five civilians were ongoing at year's end (see section 1.e.).

On December 8, former deputy director-general of the NIA, Alieu Singhateh, and former director of external relations of the NIA, Kemo Balajo, were released after prolonged detention on charges of concealment of treason in relation to the March 21 coup plot. The two were denied access to lawyers for several months.

In several instances security forces forcibly entered homes without warrants to arrest citizens. For example, on April 6, Sheriff Mustapha Dibba, the speaker of the National Assembly, and Mariam Denton, a prominent lawyer and UDP supporter who was representing coup suspect Tamsir Jasseh, were arrested without warrant. Dibba was accused of involvement in the coup plot but was released without charge on April 15 after being held for several days beyond the 72-hour limit. Denton was held for 111 days and was denied access to legal counsel for several weeks. In July a court order was issued for her release. The government tried unsuccessfully to subvert the court order by charging her with concealment of treason; but on July 25, the charges were dropped and she was released.

Colonel Ndure Cham, former chief of defense staff who was the alleged mastermind of the March 21 coup plot, remained at large at year's end. Two of the five accused civilians, Alieu Jobe and Tamsir Jasseh, were charged with aiding and abetting Cham's escape in addition to charges of concealment of treason. They remained in detention, and their trial was ongoing at year's end.

Security forces also detained the family members of suspected coup plotters (see section 1.f.).

On August 2, the former chairman of the Independent Electoral Commission, Ndondi Njie, and two commissioners, Sulayman Sait Mboob and Ebrima Silla Sanneh, were detained on charges of financial malpractice. On August 7, Mboob and Sanneh were released on bail without being formally charged. On September 5, Njie was released without charge. No proof of financial malpractice was produced.

On June 2, the NIA detained Duta Kamaso, a former member of the National Assembly, on "political and economic grounds; Kamaso was released without charge on October 9. No explanation had been given for her arrest by year's end. Kamaso reportedly had to report to the NIA on a weekly basis during the year.

On November 10, two NIA officers, Nuru Secka and Bamba Manneh, were released on bail after spending several months in detention for failing to arrest a fugitive, former state guard commander major Kalipha Bajinka.

In early February, the government withdrew charges against the three National Alliance for Democracy and Development (NADD) leaders detained in November 2005 for sedition and unauthorized possession of a diplomatic passport.

Backlogs and inefficiency in the justice system resulted in lengthy pretrial detentions. Approximately 40 of Mile 2 Prison's 230 inmates were in pretrial detention, and some had been incarcerated for several years while awaiting trial. On December 19, 20, and 21, the NIA freed a total of 26 people held in connection with minor offenses. The length of their detention was not disclosed.

#### e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, in practice the courts, especially at the lower levels, were corrupt and subject to executive pressure at times. Nevertheless, the courts demonstrated independence on several occasions, including in the high profile cases of Malick Mboob and Duta Kamaso (see sections 1.d. and 2.a.). However, there were instances of the government and security forces disregarding court orders. For example, on March 30, the government charged Pa Sallah Jeng, the mayor of Banjul, with the same allegations of corruption, abuse of office, and unauthorized spending for which he had been acquitted in December 2005; the trial was ongoing at year's end.

The judicial system is composed of the Supreme Court, the court of appeal, high courts, and eight magistrate courts. Cadi courts have jurisdiction over Islamic matters of marriage, divorce, land disputes, and inheritance where Muslim parties are involved. District chiefs preside over local tribunals that administer customary law at the district level. Cadi courts and district tribunals do not offer standard legal representation to the parties involved, since lawyers are not trained in Islamic or customary law. Military tribunals cannot try civilians.

An August report by the IBA expressed concern over the judicial environment, citing instances of lack of compliance with court orders, detainees held incommunicado and without access to lawyers, and a climate of fear for the safety and reputation of lawyers and their families when accepting politically related cases. The report also stated that some legal practitioners were reluctant to engage in cases involving human rights or public interest due to fear of harassment.

## Trial Procedures

Both civilian trials and courts martial are held in public. No juries are used in the civilian courts, but in the courts-martial the proceedings are presided over by a judge advocate assisted by a panel of senior military officers. The constitution and law provide for a fair and public trial, and the judiciary generally enforced this right, although frequent delays and missing witnesses and lawyers often impeded the process. Many cases were also delayed because of adjournments designed to allow the police or NIA time to continue their investigations.

Indigent defendants charged with murder or manslaughter have a right to an attorney provided at public expense. The prosecution prepares a case file, including testimonies and evidence, and provides a copy for the defense. Defendants are presumed innocent, have the right to confront witnesses and evidence against them, present witnesses on their own behalf, have the right to an attorney, and appeal judgment to a higher court. The law extends the above rights to all citizens, and there were no groups that were denied these rights based on race.

The judicial system suffered from corruption, particularly at the lower levels, and from inefficiency at all levels. Cases continued to be delayed because the court system was overburdened. To alleviate the backlog and reduce the possibility of undue influence and corruption, the government continued to recruit judges and magistrates from other Commonwealth countries that have a similar legal system. The attorney general oversees the hiring of foreign judges on contract. The government reserves the right not to renew a judge's contract. Foreign judges were generally less susceptible to corruption and executive branch pressure. Despite these steps, corruption in the legal system persisted.

The judicial system recognizes customary, Shari'a (Islamic law), and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Shari'a was observed primarily in Muslim marriage and divorce matters; it favored men in its provisions (see section 5). General law, following the British model, applied to felonies and misdemeanors in urban areas and to the formal business sector.

On January 20 the Gambia Bar Association (GBA) accused the former chief justice, Stephen Allan Brobbey, of partiality in the assignment of cases, and lawyers boycotted one justice, M.A. Paul, for his alleged mishandling of trials, by refusing to appear before his court. The chief justice rejected the accusations but immediately effected changes in the courts and assigned Justice Paul to the civil division.

The trials of 15 of the 21 suspects detained in connection with the March 21 coup plot were ongoing at year's end (see section 1.d.). Of the six NIA agents charged with concealment of treason, two, Alieu Singhateh and Kemo Balajo, were released on December 8, while Abdoulie Kujabi, Ngor Secka, Foday Barry, and Baba Saho, had not been tried by year's end. Retired Colonel Vincent Jatta, also charged with concealment of treason, was also awaiting trial at year's end. One detainee, Sergeant Buba Mendy, was arrested on April 14 and had not been charged at year's end. The trial of the five civilians charged with concealment of treason--Tamsir Jasseh, Alieu Jobe, Omar Faal Keita, Demba Dem, and Hamadi Sowe--was ongoing at year's end; two of the men, Alieu Jobe and Tamsir Jasseh, were also charged with aiding and abetting the escape of Colonel Ndure Cham, the alleged mastermind of the coup who remained at large at year's end.

The trial of the 10 soldiers was scheduled to resume in October; however, the defendants were brought before a court-martial at Yundum Army Barracks on October 11. No official reason was given for transferring the case to the court martial. Four soldiers, Captain Bunja Darboe, Captain Yaya Darboe, Captain Wassa Camara, and 2nd Lieutenant Pharing Sanyang, were charged with treason; six others, Captain Abdourahman Jah, Captain Pierre Mendy, Lieutenant Momodou Alieu Bah, Corporal Samba Bah, Lance Corporal Babou Janha, and Private Alhaji Nying, were charged with concealment of treason.

All of the detainees faced extended pre-trial detention and were denied access to legal counsel for several months during the year. Two suspects in the coup plot were released after testifying against the defendants as state witnesses; Mustapha Lowe was released on November 20, and Ousman Sey was released on December 29. There were no reports that Lowe and Sey were coerced into testifying against the other suspects; however, their charges were dropped once they agreed to testify as prosecution witnesses.

## Political Prisoners and Detainees

During the year there were credible reports that the government held civilians as political detainees based on their political views or associations, and many were held incommunicado for prolonged periods. For example, on April 6, the government detained without charge Mariam Denton, a prominent lawyer and UDP supporter who was representing coup suspect Tamsir Jasseh (see section 1.d.). Until her release on July 25, Denton was denied access to her attorney despite an April 25 high court order granting the attorney unrestricted access to her. On June 2, the NIA detained Duta Kamaso, a former member of the National Assembly, on "political and economic" grounds, and accused her of being an informant for the antigovernment Freedom newspaper; Kamaso was released without charge on October 9 but must report to the NIA on a weekly basis. From August 26 to September 5, the government detained Buba Sanyang, a NADD supporter, on accusations of impersonating a member of the IEC (see section 3). Sanyang read a televised confession statement alleging he was assigned by NADD leader Halifa Sallah to impersonate an IEC officer and collect voter registration cards. He was released later on bail after being held at NIA headquarters for several days beyond the 72-hour limit; no charges were ever brought against him and his case did not go to trial.

During the year the government arrested and detained opposition members who publicly criticized or who expressed views in disagreement with the government (see section 2.a.).

## Civil Judicial Procedures and Remedies

The high court has jurisdiction to hear cases for civil and human rights violations, although it may decline to exercise its powers if it is satisfied that adequate means of redress are available under other laws. The Indemnity Act continued to prevent victims from seeking redress in some cases (see section 1.c.). The army continued to encourage victims to file formal complaints so that old cases would be

investigated; however, no such cases were filed during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, but the government did not always respect these prohibitions in practice. Decree 45, which abrogates constitutional safeguards against arbitrary searches and the seizure of property without due process remained in effect; however, in practice the government did not use it. In several instances security forces forcibly entered homes without warrants to arrest citizens (see section 1.d.). For example, on April 6, Sheriff Mustapha Dibba, speaker of the National Assembly, and Mariam Denton, a prominent lawyer representing a coup plot suspect, were arrested without warrants (see section 1.d.).

Several family members of suspected coup plotters were detained. On March 25, Awa Darboe Cham, wife of Colonel Ndure Cham, the suspected mastermind of the coup plot, was arrested and questioned about her husband's whereabouts. She was held beyond the 72 hour limit and then released on April 4 without charge. During the last week of March the wife of National Assembly Member Omar Camara was detained and held beyond the legal limit; on April 3, she was released without charge along with her husband.

Observers believed the government monitored citizens engaged in activities that it deemed objectionable.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and the press; however, the government limited these rights by intimidation, detention, and restrictive legislation. Although the independent press practiced a degree of self censorship, opposition views regularly appeared in the independent press, and there was frequent criticism of the government.

During the year the government arrested and detained opposition members who publicly criticized or who expressed views in disagreement with the government. On June 27 an elected local official from the UDP, Ousman "Rambo" Jatta, was arrested on charges of "behaving in a manner conducive to a breach of the peace." On July 10, the case was discontinued and Jatta was granted bail; however, on September 23, security agents rearrested him, reportedly without charge. On October 17, a court ordered his release, but he remained in detention at year's end.

The NADD leaders detained in November 2005 were released in December 2005 (see section 1.d.).

The government published one newspaper, The Gambia Daily. The Daily Observer, although privately owned, tended to favor the government in its coverage. There were three other independent newspapers, including one published by an opposition political party. There was one independent bi weekly magazine.

During the year one government owned and four private radio stations broadcast throughout the country. During most of the year government owned television and radio gave very limited coverage to opposition activities. Local television stations rebroadcast the BBC, Radio France Internationale, the Voice of America, and other foreign news reports, and all were available via short wave radio. The government owned Gambian Radio and Television Service (GRTS) television, foreign cable, and satellite television channels were available in many parts of the country. The Senegalese owned radio station SUD FM remained closed during the year; in 2005 the government revoked its operating license for allegedly broadcasting derogatory remarks about the government and the Senegalese government.

The government allowed unrestricted access to satellite television, and residents who could afford it received independent news coverage by satellite dish or antenna.

The deterioration of the country's media environment continued during the year. The government harassed journalists and editors of newspapers that published articles it considered inaccurate or sensitive.

On March 28, police arrested Madi Ceesay, the managing director, and Musa Saidykhan, the editor-in-chief of The Independent newspaper after it published two articles critical of the president. Ceesay and Saidykhan were released without charge on April 20. The Independent remained closed at year's end.

On April 10 Lamin Fatty, journalist for The Independent, was charged with publishing an article the state considered to be "false and malicious." Fatty's trial began on June 12 but was postponed numerous times. His trial was suspended indefinitely at year's end, meaning the trial will not continue unless assigned to a new magistrate.

On May 24, The Daily Observer published a letter reportedly from the editor of The Freedom Newspaper, an online newspaper critical of the government, pledging his allegiance to the APRC, along with a list of the paper's supposed informants. On May 30, the NGO Reporters Without Borders reported that this was false information and the government had attempted to hack into the Website of The Freedom Newspaper, smear the name of its editor, and publicize the names of its subscribers.

Also on May 24, the NIA detained Malick Mboob, a former journalist, for allegedly being an informant for The Freedom Newspaper. Mboob was released without charge on October 9.

On August 29, the NIA reportedly detained Amie Sillah, a NADD activist and journalist for the opposition Foroyaa newspaper. No reason for her arrest was given, and Sillah was released without charge on the same day.

On September 8, the NIA detained GRTS reporter and producer Dodou Sanneh, who was assigned to cover the opposition's presidential campaign. On September 13, he was fired from GRTS and released from custody. Although the government later ordered the director general of GRTS to reinstate him, Sanneh was dismissed again on November 20.

At a September 24 press conference after his election victory, President Jammeh claimed he would ban any newspaper deemed to threaten the country's peace and security through "irresponsible reporting."

In some cases journalists from certain independent newspapers were denied access to public events due to official disapproval of their editorial stance.

The Senegalese owned radio station SUD FM remained closed during the year. The government revoked its operating license in October 2005 for allegedly broadcasting derogatory remarks regarding both the government and Senegalese government.

During the three week campaign period before the September presidential election, opposition parties were allotted television time slots, but coverage of opposition rallies was limited. Contrary to the code of conduct created by journalists and adopted by the media for coverage of the election, the ruling APRC party received more coverage than the opposition.

#### Internet Freedom

Although there were no reports that the government monitored e mail or Internet chatrooms, the government on one occasion restricted access to the Internet. In late May the government reportedly blocked access to The Freedom Newspaper, and the site remained blocked at the end of the year. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by electronic mail. Although many citizens were illiterate and most did not have computers or Internet connections at home, Internet cafes were popular in urban areas. Internet access was limited by slow connection speeds and was frequently interrupted by power outages. On November 6, the Gambia Press Union opened an Internet cafe offering free access to journalists.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The constitution and law provide for freedom of assembly; however, the government did not always respect this right in practice.

In June the government denied a request by the Association of Nongovernmental Organizations to hold a civil society forum on freedom of expression in association with the African Union Summit.

On September 20, police reportedly sprayed teargas on participants in a UDP rally; 12 UDP supporters were briefly detained.

In December 2005 an armed police riot squad blocked friends and family of slain journalist Deyda Hydera from accessing the site of his death on the anniversary of his murder. The second anniversary was commemorated without obstruction on December 16.

##### Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right in practice. The Armed Forces Provisional Ruling Council's Decree 81 requires NGOs to register with the National Advisory Council, which has the authority to deny, suspend, or cancel the right of any NGO to operate, including that of international NGOs. There were no reports of NGOs being denied the right to operate during the year.

#### c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice.

#### Societal Abuses and Discrimination

There was no reported societal violence, harassment, or discrimination against members of religious groups. There was no known Jewish community, and there were no reports of anti Semitic acts.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The constitution and law provide for these rights but allow for "reasonable restrictions." Restrictions were made on foreign travel for many people released from detention, often because their travel documents were confiscated at the time of their arrest or soon afterwards. These documents were eventually returned during the year.

The law prohibits forced exile, and the government did not use it.

#### Protection of Refugees

Neither the constitution nor the law provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has established a system for providing such protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where they feared persecution. The government granted refugee status or asylum. The government provided temporary protection through the registration of refugees with the Department of Immigration.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. UNHCR coordinated government efforts with the International Organization for Migration, the Gambia Red Cross Society and other agencies to provide assistance to refugees.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, partially free and fair elections held on the basis of universal suffrage. The constitution provides for democratic elections of the president and National Assembly every five years. The APRC remained the dominant political party.

#### Elections and Political Participation

On September 22, President Jammeh was re-elected for a third term, winning approximately 67 percent of the vote. The main opposition political party, the UDP, challenged the election; however, on October 20, the courts upheld the election results.

The Commonwealth Observer Group reported that the election result represented an "expression of the will of the people"; other international observers declared the election partially free and fair, but noted under-age voting, voting by non-nationals, and biased media coverage in favor of President Jammeh. Opposition parties criticized these irregularities and stated that the APRC did not adhere to the code of conduct in the Memorandum of Understanding (MOU) brokered by the Commonwealth in September 2005. The opposition political parties signed the MOU in September 2005, but the APRC refused to sign until February.

In January 2005 five opposition parties formed the NADD alliance to contest the presidential election and the 2007 National Assembly elections. Leaders of the National Democratic Action Movement, the National Reconciliation Party (NRP), the People's Democratic Organization for Independence and Socialism, the People's Progressive Party, and the UDP signed a Memorandum of Understanding that established NADD; however, the UDP and NRP withdrew from NADD before the presidential election and ran as a separate alliance.

In July 2005 the Supreme Court ordered the four members of the National Assembly who fell under the newly formed NADD coalition to vacate their seats and run in a special election. In September 2005 three of the four opponents regained their seats in a special election; the member who lost contested the vote in court, but at year's end the case had still not been heard.

Individuals representing political parties or running as independents could freely declare their candidacy if their nomination was approved according to the rules of the IEC.

On July 17, President Jammeh named a new chairman for the IEC after former chairman Ndondi Njie was removed on charges of financial malpractice (see section 1.d.); however, the replacement process was not in accordance with the rules of the constitution, which states that prior to removing an IEC commissioner for misconduct, the president must appoint a tribunal of three judges to make an inquiry and report on the facts. The accused member of the IEC is entitled to appear and be legally represented before the tribunal.

The government arrested members of the opposition during the year (see sections 1.d. and 2.a.).

There were five women in the 53 seat National Assembly; two were elected and three were nominated by the president. After a cabinet reshuffle, at year's end there were five women in the 15 member cabinet, including the vice president.

There were no statistics available on the percentage of minorities who compose the legislature or the cabinet. President Jammeh and some members of his administration were from the previously marginalized minority Jola ethnic group.

#### Government Corruption and Transparency

Official corruption remained a serious problem, although there were some government efforts to curb it during the year. The president often

spoke out against corruption, and leading political and administrative figures, including a close ally of the president, faced harsh sentences on charges of corruption.

The findings of the 2005 Commission of Inquiry into official corruption, commonly known as the "Paul Commission," were not made public by year's end. In January the high court ordered a stay of execution on the commission's eviction orders against 20 former senior civil servants and ordered that the properties in question be restored to their owners. However, the stay of execution was ignored, and a few days later security forces evicted the former officials from their homes. In June a separate court reversed the recommendations for one member of the group, former Justice Minister Pap Cheyassin Secka. The GBA accused Justice Paul of lacking impartiality, and the high court dismissed the recommendations, charging that they were biased.

The constitution and law do not provide for public access to government information. Under the Official Secrets Act, civil servants are not allowed to divulge information about their department or to speak to the press without prior clearance with their head of department.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, although some members of domestic human rights groups reportedly practiced self censorship in matters related to the government. Amnesty International expressed concern over the situation of detainees held incommunicado and issued periodic updates on their status. The government did not respond to these reports. The government allowed visits by the UN and other international governmental organizations, such as the Commonwealth Secretariat, but offered no response to reports issued after the visits.

In December 2005 the Office of the Ombudsman established the National Human Rights Unit (NHRU) to promote and protect human rights and to support vulnerable groups. During the year the unit's reports focused on social and economic issues, such as gender, welfare, and child labor, and were not critical of the government.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, religion, sex, disability, language, or social status, and the government generally enforced these prohibitions.

##### Women

Domestic violence, including spousal abuse, was a common problem. Police considered reported incidents to be domestic issues outside of their jurisdiction. There was no law prohibiting domestic violence; however, cases of domestic violence could be prosecuted under laws prohibiting rape, spousal rape, and assault. The penalty for rape is life in prison, and it was enforced. The law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it.

The law does not prohibit FGM. The government publicly supported efforts to eradicate FGM and discouraged it through health education; however, the practice remained widespread and entrenched. Between 60 and 90 percent of women have undergone FGM. Approximately seven of the nine major ethnic groups practiced FGM at ages varying from shortly after birth until age 16. FGM was less frequent among the educated and urban segments of those groups. There were unconfirmed reports of incidences of health related complications, including deaths, associated with the practice of FGM; however, no accurate statistics were available. Several NGOs conducted public education programs to discourage the practice and spoke out against FGM and harmful traditional practices in the media. During the year the National Assembly Select Committee on Women and Children continued its campaign against FGM and other harmful traditional practices affecting the lives of women and children.

Prostitution is illegal but was a problem, especially in the tourist areas. The government expelled numerous foreign prostitutes. The Tourism Offences Act deals with increasing incidents of tourism related offenses, including sex tourism. The act prohibits child prostitution, trafficking, and pornography. No prosecutions or convictions were made under the Act during the year.

There are no laws against sexual harassment. Although individual instances have been noted, sexual harassment was not believed to be widespread.

Traditional views of women's roles resulted in extensive societal discrimination in education and employment. Employment in the formal sector was open to women at the same salary rates as men. No statutory discrimination existed in other kinds of employment; however, women generally were employed in such pursuits as food vending or subsistence farming.

Shari'a law is applied in divorce and inheritance matters for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than did males. The appropriate church and the Office of the Attorney General settled Christian and civil marriage and divorce matters.

Marriages often were arranged and, depending on the ethnic group, polygamy was practiced. Women in polygamous unions had property and other rights arising from the marriage. They also had the option to divorce but no legal right to approve or be notified in advance of subsequent marriages. The Women's Bureau, which is under the Office of the Vice President, oversees programs to ensure the legal rights of women. Active women's rights groups existed.

## Children

The government was committed to children's welfare. Although the Department of Education and the Department of Health and Social Welfare were the most generously funded government departments, lack of resources limited state provision of education, health, and social services. The Department of Education financed teachers' salaries and the construction of schools but was unable to properly equip the schools. The Social Welfare Unit of the Department of State for Health and Social Welfare received a very small allocation, as most of the department's money went towards salaries for health care professionals and the operation of hospitals and health centers across the country. These budgetary constraints limited the resources available to support children's welfare.

The constitution and law mandate free, compulsory primary education up to eight years of age, but the inadequate educational infrastructure prevented effective compulsory education, and children still must pay school fees. During the year the government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in the Islamic schools called "madrassas." Girls constituted approximately 51 percent of primary school students and roughly one third of high school students. The enrollment of girls was low, particularly in rural areas where a combination of poverty and sociocultural factors influenced parents' decisions not to send girls to school. As part of the government's ongoing initiative to get girls to go to school, the government continued to implement a countrywide program to pay basic school fees for all girls, a Scholarship Trust Fund scheme that began in two regions 1998 and reached all six regions nationwide in 2003; however, in two urban regions, girls still were required to pay for books, school fund contributions, and exam fees.

In June 2005 the government passed the Children's Act, which is designed to protect and promote the welfare of children and to curb abuses against children, including trafficking in persons. In February the first of five regional children's courts was established under the Act and held its first session on March 2. The court met in camera on a weekly basis throughout the year. The court has jurisdiction to hear all adoption, custody, maintenance, parentage, special, and criminal cases affecting children, except for the offense of treason where the child is jointly charged with adults. Although several criminal cases were heard regarding rape and abuse, no convictions occurred under the Children's Act during the year.

Authorities generally intervened when cases of child abuse or mistreatment were brought to their attention; however, there was no societal pattern of abuse against children. Any person who has carnal knowledge of a girl under the age of 16 is guilty of a felony (except in the case of marriage, which can be as early as 12 years of age). Incest also is illegal. These laws generally were enforced. Serious cases of abuse and violence against children were subject to criminal penalties.

On July 23, a government shelter for children, including victims of trafficking, began operating in the Greater Banjul Area. The Department of Social Welfare indicated they were able to admit only around 100 children to the shelter at a time, and that several children had to be turned away due to funding constraints.

Trafficking of children for prostitution was a problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

The Child Protection Alliance (CPA), a consortium of national and international organizations that promote the protection of children from abuse, conducted countrywide awareness campaigns for community and religious leaders on children's rights. Throughout the year, the CPA organized sensitization conferences and workshops for various groups such as lawyers, teachers, parents, media practitioners, and religious leaders around the country.

## Trafficking in Persons

The 2005 Children's Act prohibits trafficking in children; however, no law protects persons over the age of 18 from trafficking. Trafficking occurred, and the government considered it a serious problem.

The country was a source, transit point, and destination for trafficked persons. The number of persons, mostly children, trafficked for commercial sexual exploitation was small but growing.

The penalty for trafficking in children (anyone under the age of 18) is life in prison, along with a substantial monetary fine. Enforcement of the act is primarily the responsibility of the Tourism Security Unit, a unit of the national army created specifically to enhance security in the tourism sector and keep minors out of the resort areas. There were no prosecutions under this law during the year.

In 2004 a joint UN Children's Fund (UNICEF) government study reported that children engaged in prostitution in the main tourist resort areas were predominantly underage, some as young as 12. The report stated that the country attracted suspected or convicted European pedophiles who entered the country as tourists and committed their crimes against children with impunity. Victims of trafficking were children of both sexes, normally under 18 years of age. Trafficking victims mostly came from conflict ravaged countries, such as Liberia and Sierra Leone. Victims from Senegal, Guinea Bissau, and Sierra Leone told CPA that foreign residents obtained permission from their home country families to employ them as bar waitresses or domestic maids. After their arrival the local employers informed the victims that their duties entailed commercial sex work.

Some child prostitution victims stated they worked to support their families, or because they were orphans and their guardian/procurer supported them. The guardian/procurer often assumed the role of the "African uncle," allowing the children to live in his compound with their younger siblings or paying school fees on their behalf in return for their servitude.

There was no evidence of government involvement at any level in trafficking in persons.

While the government had no established victim care and health facilities for trafficked persons, it provided temporary shelter and access to medical and psychological services to reported victims of trafficking.

The government's multi agency trafficking in persons taskforce, which also included representatives from UNICEF, the National Assembly, and the CPA, met throughout the year. On August 25, the CPA began broadcasting public awareness messages about child trafficking on radio and television as part of an outreach campaign. On December 19, the Child Rights Unit of the Department of State for Justice held a UNICEF funded conference and workshop on trafficking for officers from the police and security and intelligence services.

#### Persons with Disabilities

Although the constitution protects persons with disabilities against exploitation and discrimination, no government agency is directly responsible for protecting persons with disabilities. The Department of State for Social Welfare dealt mainly with supplying some persons with disabilities with wheelchairs received from international donors. No legal discrimination against persons with physical disabilities existed in employment, education, or other state services; however, some societal discrimination existed towards persons with disabilities. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered little discrimination in employment for which they physically were capable. There were no laws to ensure access to buildings for persons with disabilities, and very few buildings in the country were specifically accessible to persons with disabilities.

During the year a government attempt to remove beggars, many of whom have disabilities, from the streets had adverse effects on these persons. The NHRU specifically sought to promote the rights of women with disabilities. The issue of the rights of persons with disabilities attracted press coverage throughout the year, and several NGOs sought to improve awareness of these rights, including encouraging the participation of persons with disabilities in sports and physical activities. Persons with disabilities were given priority access to polling booths on voting day.

#### Other Societal Abuses and Discrimination

There was evidence of societal discrimination against persons infected with the HIV/AIDS virus. Stigma and discrimination hindered disclosure and led to rejection from partners and relatives. In some cases persons infected with HIV/AIDS were prevented from meeting visitors. The government took a multi-sectoral approach to fighting HIV/AIDS and updated the National Strategic Plan, which provides for care, treatment, and support to persons living with, or affected by, HIV/AIDS, and the protection of the rights of those at risk of infection. The National AIDS Secretariat (NAS), whose goal is to promote public awareness of HIV/AIDS, sponsored a television sensitization campaign during the year to educate people about HIV/AIDS and prevent discrimination. Also, from October 2-6, NAS and the local UN Development Program jointly held the second annual partnership conference on HIV/AIDS, which focused on the education sector response to HIV/AIDS.

There were no discriminatory laws based on sexual orientation; however, there was societal discrimination based on sexual orientation, which remained a social taboo.

#### Section 6 Worker Rights

##### a. The Right of Association

The Labor Act, which applies to all workers, including foreign or migrant workers, except civil servants, specifies that workers are free to form associations, including trade unions, and workers exercised this right in practice. Unions must register to be recognized, and there were no cases where registration was denied to a union that applied for it. The act specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the government intervened to assist workers who were fired or discriminated against by employers.

##### b. The Right to Organize and Bargain Collectively

The law permits unions to conduct their activities without interference; however, it was widely felt that the government would not tolerate industrial action. Unions were able to negotiate without government interference; however, in practice the unions lacked experience, organization, and professionalism, and often turned to the government for assistance in negotiations. The law allows workers to organize and bargain collectively, and although trade unions were small and fragmented, collective bargaining took place. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management. The Labor Act also sets minimum contract standards for hiring, training, and terms of employment and provides that contracts may not prohibit union membership.

The law authorizes strikes but also places restrictions on strikes by requiring unions to give the commissioner of labor 14 days' written notice before beginning an industrial action (28 days for essential services); no strikes occurred during the year. The law specifically prohibits police officers and military personnel, as well as other civil service employees, from striking. The police and military had access to a complaints unit, and civil servants could take their complaints to the Public Service Commission or the Personnel Management Office.

Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. It prohibits retribution against strikers who comply with the law regulating strikes.

There is a government established export processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. The labor code covers workers in the EPZs, and they were afforded the same rights as workers elsewhere in the economy.

#### c. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see section 5).

#### d. Prohibition of Child Labor and Minimum Age for Employment

Child labor was a problem, although the constitution protects children less than 16 years of age from economic exploitation, and the Children's Act protects children, defined as those under the age of 18, from exploitative labor or hazardous employment. The Act also sets the minimum age of 12 years for engaging in apprenticeships in the informal sector. There was no effective compulsory education, and because of limited secondary school openings, most children completed formal education by the age of 14 and then began work. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading, as child labor in informal sectors is difficult to regulate and laws implicitly apply only to the formal sector. In rural areas most children assisted their families in farming and housework. In urban areas many children worked as street vendors or taxi and bus assistants. There were a few instances of children begging on the street. The tourist industry stimulated a low, but growing, level of child prostitution (see section 5). Employee labor cards, which include a person's age, were registered with the labor commissioner, who was authorized to enforce child labor laws; however, enforcement inspections rarely took place. The Department of Labor under the Department of State for Trade and Employment was responsible for implementing the provisions of the International Labor Organization (ILO) Convention 182 on the worst forms of child labor. The 2003 Tourism Offences Act incorporates ILO provisions outlawing child prostitution and pornography; however, the government generally was ineffective in enforcing those provisions.

#### e. Acceptable Conditions of Work

Minimum wages and working hours are established by law through six joint industrial councils, comprising representatives from labor, management, and the government. The lowest minimum wage according to law was approximately \$0.70 (19.55 dalasi) per day for unskilled labor, but in practice the minimum wage was approximately \$1.79 (50 dalasi). The national minimum wage did not provide a decent standard of living for a worker and family. The minimum wage law covered only 20 percent of the labor force, essentially those workers in the formal economic sector. A majority of workers were employed privately or were self employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families. The Department of Labor is responsible for enforcing the minimum wage and it did so when cases of underpayment were brought to its attention.

The basic legal workweek is 48 hours within a period not to exceed six consecutive days. Nationwide, the workweek included four eight hour workdays and two four hour workdays (Friday and Saturday). There are no limits on hours worked per week and no prohibition on excessive compulsory overtime. A 30 minute lunch break is mandated. Government employees are entitled to one month of paid annual leave after one year of service. Most government employees were not paid overtime. However, government workers holding temporary positions and private sector workers received overtime calculated per hour. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service.

The law specifies safety equipment that an employer must provide to employees working in designated occupations. The law also authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. Enforcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the labor department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice authorities did not effectively enforce this right.

The law protects foreign workers employed by the government; however, it only provides protection for privately employed foreigners if they have a current valid work permit.