

Report on Religious Freedom in Gambia

Executive Summary

The Gambian Constitution provides for freedom of religion and supports all other laws and policies that contribute to the free practice of religion. Gambian law, at all levels, protects freedom of religion in full from abuse by the government or private actors. Though the Gambian Constitution states protection for all basic human rights the Gambian government is having problems protecting all of those rights. However, despite the lack of protection of all human rights, the U.S. State Department has only reported a small number of abuses based on religious discrimination in its latest report. The country's religious majority are Sunni Muslims, Roman Catholics and other Christian sects being the minority. The Government supports all Christian and Islamic holidays and funds all religious instruction in schools.

Institute on Religion and Public Policy

Twice nominated for the Nobel Peace Prize, the Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally to promote fundamental rights and religious freedom in particular, with government policy-makers, religious leaders, business executives, academics, non-governmental organizations and others. The Institute encourages and assists in the effective and cooperative advancement of religious freedom throughout the world.

Overview of Human Rights Issues in Gambia

Though Gambia's Constitution clearly states the protection of all basic human rights, those laws and protections are not always carried out. The U.S. State Department and Amnesty International have reported on offenses by the government that include restricting freedom of speech and press, allowing security persons to torture persons in custody and denying the accused a fair public trial. The Gambian government is also lacking in protecting women's rights and preventing human trafficking. The country of Gambia grapples with a tyrannical leader who does not always abide by the provisions laid out in the Gambian Constitution.

The Constitution and law provide for freedom of speech and of the press; however, the government limited these rights by intimidation, detention, and restrictive legislation. According to a report by Amnesty International, the media has been censoring itself in the face of arrests, fines, threats and physical attacks on those accused of criticizing the government. All public protests have ceased. The Gambian government prohibits torture however, there were reports that security forces beat, tortured, and mistreated persons in custody. During a trial

that concluded in April, of nine separatist rebels from the Senegalese province of Casamance, four of the accused told the court that they were severely tortured during detention and stated their statements presented as evidence were obtained under duress. Similar claims of torture were made by detainees held in connection with the 2006 coup plot. The government did not respond to these allegations.

The constitution and law provide for an independent judiciary, and the courts demonstrated independence on several occasions. However, in practice the courts, particularly at the lower levels, were corrupt and at times subject to executive pressure. Amnesty International noted that the presidential power to remove a judge in consultation with the Judicial Service Commission (JSC) impedes judicial independence. In practice, during the year the president removed three High Court judges without consulting the JSC.

Domestic violence, including spousal abuse, is a widespread problem; however, it was underreported due to the stigma surrounding such violence. Police considered reported incidents to be domestic issues outside of their jurisdiction. There was no law prohibiting domestic violence or sexual harassment. Shari'a law is applied in divorce and inheritance matters for Muslims, who make up more than 90 percent of the population. Shari'a law is the body of Islamic religious law. Women normally received a lower proportion of assets distributed through inheritance than males because of these laws. Lastly, Gambian law does not prohibit female genital mutilation and the practice has remained widespread. The law prohibits all forms of trafficking in persons; however, persons were trafficked to, from, through, and within the country. The U.S. State Department and Amnesty International consider trafficking in Gambia to be a serious problem.

As of May 2009, the New York Times has reported on the tyranny of President Al-Haji Yahya Jammeh. His latest witch hunts have forced Gambian citizens to flee to Senegal. Round ups for these witch hunts were guided by the President's "Green Boys", a group of vigilant die-hards who paint their faces green and use force to round up mostly the elderly. Amnesty International estimates that at least six people have died from being forced to drink a potion with an unknown composition.

Legal Status

The Gambian Constitution was adopted on August 8 1996 and last amended in 2001. The right to freedom of religion is laid out in chapter IV along with other protections for all basic fundamental rights and freedoms.

Section 17 in chapter IV states, "The fundamental human rights and freedoms enshrined in this Chapter shall be respected and upheld by all organs of the executive and its agencies, the legislature and, where applicable to them, by all natural and legal persons in The Gambia, and shall be enforceable by the courts

in accordance with this Constitution. Every person in The Gambia, whatever his or her race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status, shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter, but subject to respect for the rights and freedoms of others and for the public interest.”

Gambia brings religion into their government by establishing Cadi courts. In chapter VIII section 120b defines the Cadi court as a judicial power. A Cadi court is a court that applies traditional Islamic law. The Constitution creates cCadi courts in such places as the chief justice determines. The two Cadi courts sit in Banjul and Kanifing. Their jurisdiction applies only to marriage, divorce, and inheritance questions for Muslims.

The Gambian Constitution also prohibits any discrimination based on religion. Chapter IV, section 34 outlines protection from discrimination and defines discrimination. Section 34 includes the following:

- (1) All persons shall be equal before the law.
- (2) Subject to the provisions of subsection (5), no law shall make any provision which is discriminatory either of itself or in its effect.
- (3) Subject to the provisions of subsection (5), no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or public authority.
- (4) In this section, the expression "discrimination" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, color, gender, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description.

Specific Instances of Religious Discrimination

There have been very few instances of discrimination based on religion in Gambia since the U.S. State Department’s last report. Recently prominent social leaders have taken steps to promote religious freedom and tolerance of all religions. The reports of discrimination are listed below:

In May 2008 the chairman of the Inter-Faith Group for Dialogue and Peace, a Muslim imam, said the group had concluded their investigation into the April 2007 attack on a Catholic priest in Brikama and found that the attack was carried out by independent "troublemakers" without any involvement by the imam of a nearby mosque. According to the chairman, both Muslim and Christian leaders in the community decided to put the incident behind them. The Catholic Mission agreed that the community had decided to move on, but maintained the imam from the mosque had been involved.

In December 2007 the U.S. affiliate of a Nigerian evangelical Christian group Christ for Humanity reported unprovoked mistreatment by their Muslim neighbors, including stone-throwing at their compound outside Banjul, with some stones breaking through the tin roof of their main building. Police investigated the stone-throwing incident and plainclothes officers observed the next service.

The Inter-Faith Group for Dialogue and Peace, comprising representatives of the Christian, Muslim, and Baha'i communities, continued to meet regularly to discuss matters of mutual concern such as religious freedom, tolerance, and the need for people of different religious groups to live together in harmony. Some groups such as Baptists, Seventh-day Adventists, and Church of Christ the Redeemer were not part of the Inter-Faith Group.

US Foreign Policy

U.S. policy seeks to build improved relations with Gambia on the basis of historical ties, mutual respect, democratic rule, human rights, and adherence to UN resolutions on counter-terrorism, conflict diamonds, and other forms of trafficking. Following Gambia's successful presidential and legislative elections in October 2001 and January 2002, respectively, the U.S. Government determined that a democratically elected government had assumed office and thus lifted the sanctions it had imposed against Gambia in accordance with Section 508 of the Foreign Assistance Act as a result of the 1994 coup.

Recently relations with the U.S. have not been improved significantly due to the human rights and freedom of press shortcomings, which resulted in the suspension of Gambia's compact with the Millennium Challenge Corporation (MCC) in June 2006.

Conclusion

The Gambian Constitution protects all fundamental human rights and freedoms. Gambia faces few problems trying to protect freedom of religion. This could be because the country is made up of 90% Sunni Muslims. The incidents of religious intolerance listed above seem to be isolated incidents. Gambia has many problems involving human rights, these problems largely stem from the fact that President Al-Haji Yahya Jammeh does not adhere to the laws protecting human rights laid out in the Gambian constitution.