

THE GAMBIA 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Gambia's constitution enumerates a full range of provisions and assurances for a multiparty democratic republic. On December 1, 2016, Adama Barrow, the candidate of a coalition of seven political parties, defeated incumbent president Yahya Jammeh in what international observers deemed a peaceful and credible election. After initial acceptance of the results, the former president subsequently rejected them, claiming voter fraud and irregularities. This led to a six-week political impasse that was resolved largely through peaceful regional and international intervention, including by Economic Community of West African States (ECOWAS) member countries. President Barrow was officially sworn into office on January 20 in Dakar, Senegal, amid security concerns due to his predecessor's refusal to accept the election results. President Barrow was sworn into office again on Gambian soil after the political impasse with former president Jammeh was resolved. In the April 6 parliamentary elections, the United Democratic Party (UDP) won 31 of the 53 seats contested. The parliamentary elections were considered by international and domestic observers to be free and fair.

Civilian authorities maintained effective control over the security forces. ECOWAS military personnel remained in the country at the invitation of the president.

The democratic transfer of power resulted in significant positive changes in the human rights climate. Among President Barrow's first acts was the release of 171 prisoners from the state central prison, a majority of whom were political prisoners. National Assembly members repealed the state of emergency declared by former president Jammeh during the political impasse, a few days after Jammeh fled into exile on January 21. The new administration made several significant efforts to create a more conducive environment for freedom of expression. The Justice Department conceded that the country's sedition law and some provisions (pertaining to criminal defamation and false publication on the internet) of the country's internet law were unconstitutional. The country previously enacted legislation making both female genital mutilation/cutting (FGM/C) and child marriage illegal, although deep-seated cultural norms made the full eradication of these practices difficult. Several nongovernmental organizations (NGOs) and government agencies actively publicized the newly introduced laws in local communities.

Proceedings continued against nine former officials of the National Intelligence Agency (NIA) charged with the torture of protesters arrested in May and April 2016 and the subsequent killing of Solo Sandeng, an official of the UDP party; as of November their trials were underway. The government took steps towards establishing a Truth, Reconciliation, and Repatriations Commission (TRRC), led by the Ministry of Justice, to probe human rights abuses that occurred during President Jammeh's administration. The National Assembly unanimously passed a bill in December that formally established the nine-member TRRC and outlined its composition, objectives, and functions. Also in December, the National Assembly passed a bill establishing an independent National Human Rights Commission.

The most significant human rights issues included: harsh and potentially life threatening prison conditions; arbitrary arrests; lack of accountability in cases involving violence against women, including rape and FGM/C; trafficking in persons; and child labor.

The government took steps to prosecute or punish some individuals who committed abuses. Nevertheless, impunity and the lack of consistent enforcement remained problems.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings during the year. The remains of Solo Sandeng, a UDP politician killed in government custody after being arrested for peaceful protest in 2016, were exhumed for a new postmortem investigation to establish the cause of death. Former officials of the NIA were put on trial and charged with torture of several protesters arrested in April and May 2016 and the murder of Sandeng.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities. Families of individuals detained during the previous regime continued to demand information on the whereabouts of their missing and disappeared relatives. The whereabouts of U.S.-Gambian dual nationals Alhagie Ceesay and Ebrima Jobe, both of whom disappeared in 2013, remained unknown.

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

The constitution and the law prohibit such practices, and there were no confirmed reports that government officials employed them during the year. The government publicly announced the State Intelligence Services would limit itself to its core mandate of intelligence gathering and analysis to safeguard national security. The intelligence agency was stripped of arrest and detention powers.

Prison and Detention Center Conditions

Prison conditions were harsh and potentially life threatening due to food shortages, gross overcrowding, physical abuse, and inadequate sanitary conditions and medical care.

Physical Conditions: The Barrow administration publicly acknowledged the inhuman conditions of the central state prison Mile Two. A UN mission in June visited several prisons in the country and described the conditions as deplorable. UN officials also expressed concern regarding the high number of pretrial detainees at the prison--approximately 60 percent of the total prison population--and urged an immediate remedy to the backlog of trials.

Administration: Officials generally allowed inmates to have visits and observe religious holidays.

Independent Monitoring: The government granted the Office of the Ombudsman unrestricted access to all detention centers, and local and international NGOs had unrestricted access to all detention centers, after requesting permission from the government.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and stipulate that authorities must charge or release any person arrested by police or other security agencies within 72 hours. There were, however, numerous instances of police and other security force members' arbitrarily arresting and detaining citizens longer than 72 hours without formally charging them. A dozen military personnel were detained in July for alleged "mutinous acts, defamatory, scandalous, and unethical behavior" before being formally charged in November.

The law provides for the right of persons to challenge the lawfulness of their arrest or detention in court. Due to the backlogs in the judicial system, however, challenges frequently dragged on.

Role of the Police and Security Apparatus

The Gambia Armed Forces is responsible for external defense and serves under the authority of the commander in chief of the armed forces, a position held by the president. The Ministry of Interior is responsible for the Gambia Police Force, which maintains internal security. The Department of Immigration falls under the purview of the Ministry of Interior and is responsible for migration and border control.

Impunity was common under the Jammeh regime. Former officials of the NIA were on trial for torture of protesters arrested in April and May 2016 and for the death in custody of Solo Sandeng.

Arrest Procedures and Treatment of Detainees

The law requires authorities to obtain a warrant before arresting a person, but police officers often arrested individuals without a warrant. Periods of detention generally ranged from two to 72 hours, the legal limit after which authorities must charge or release detainees; however, there were numerous instances of detentions exceeding the 72-hour limit. There was a functioning bail system that generally required at least two sureties in addition to cash.

Officials in some cases did not allow detainees prompt access to a lawyer or family members, although officials generally allowed convicted prisoners to meet privately with an attorney. The judiciary provided only those indigent persons accused of murder or manslaughter with lawyers at public expense.

Military decrees enacted prior to the adoption of the constitution in 1997 give the NIA and the interior minister broad powers to detain individuals indefinitely without charge “in the interest of national security.” These detention decrees are inconsistent with the constitution but were not legally challenged. The government claimed it no longer enforced the decrees, but such detentions occasionally continued to occur.

Arbitrary Arrest: Security forces arbitrarily arrested citizens routinely during the year (see sections 1.e., 2.a., and 5). In 2014 the president dismissed newly appointed Minister of Education Momodou Sabally, and he was held for 41 days by the NIA without charge. He was subsequently charged with abuse of office while serving in the presidential administration and held for approximately five months before being released on bail pending trial. The government dropped the charges without explanation in September.

Pretrial Detention: Backlogs and inefficiency in the justice system continued to result in lengthy pretrial detentions. A large number of inmates in the remand wing of the state central prison continued to await trial, in some instances having been held in detention for a number of years without being tried.

Amnesty: President Barrow released 296 prisoners since assuming office in January. Many of those released were political prisoners or had been arbitrarily detained without a trial. The current ministers of foreign affairs and finance were among the political prisoners released earlier in the year.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary and the government, in a break from the past, respected judicial independence and impartiality. The Barrow administration appointed a new chief justice and 14 superior court judges, all of whom pledged to reform the judicial system and restore its credibility. All of the appointees were Gambian nationals, reflecting a fulfillment of a campaign pledge by President Barrow to “Gambianize” the judiciary, after years of staffing the court with predominantly foreign nationals under Jammeh.

Under the previous administration, Amnesty International had noted the president’s power to remove a judge, nominally in consultation with the Judicial Service Commission, interfered with judicial independence. Judges presiding over “sensitive” cases who made decisions not considered favorable to the government risked dismissal.

Also under the previous administration, the government recruited judges and magistrates from Commonwealth countries, especially Nigeria, with similar legal systems. Authorities particularly subjected foreign magistrates and judges, who often presided over sensitive cases, to executive pressure.

Trial Procedures

The law provides for the right to a fair and public trial, and an independent judiciary enforced this right. Criminal defendants were presumed innocent until proven guilty. Officials did not always properly inform defendants of the charges against them. The law provides for a trial without undue delay; however, case backlogs hampered the right to a timely trial. Defendants were usually present at trial and were allowed to communicate with an attorney of their choice or given access to a public defender. Defendants had adequate time and facilities to prepare a defense. They had the right to confront prosecution or plaintiff witnesses and present their own witnesses and evidence. Officials provided interpretation in defendants' local languages as necessary without cost from the moment charged through all appeals. By law no one may be compelled to testify or confess guilt; however, defendants were sometimes compelled to testify or confess guilt. Defendants could appeal verdicts to a higher court.

Trials generally were open to the public unless closed-court sessions were necessary to protect the identity of a witness. In cases where the court orders a person who is granted bail to provide a "surety," guarantors deposit their national documents, as required by the court, to facilitate the release of the accused persons on bail. Should the accused jump bail, the guarantors who deposited "sureties" are arrested.

Military tribunals cannot try civilians. A judge advocate presides over court-martial proceedings assisted by a panel of senior military officers. Unlike in previous years, proceedings were open to media and the public.

The judicial system also recognizes customary law and sharia (Islamic law).

Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. District chiefs preside over local tribunals that administer customary law at the district level. Customary law recognizes the rights of all citizens regardless of age, gender, and religion; however, it requires women to show respect for their husbands and children for their parents.

Sharia applies in domestic matters, including Muslim marriage, divorce, and inheritance. Qadi courts and district tribunals do not offer standard legal representation to the parties in a case, since lawyers are not trained in Islamic or customary law.

Political Prisoners and Detainees

On January 30, President Barrow released the last of all political prisoners, who had been held at the central prison in Banjul. As of November, there were no known political prisoners or detainees.

Civil Judicial Procedures and Remedies

The High Court has jurisdiction to hear cases concerning civil and human rights violations. Individuals may also seek redress through the Office of the Ombudsman, which has the mandate to investigate such cases.

Individuals and organizations may appeal adverse domestic decisions to regional human rights bodies.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect those prohibitions during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution and law provide for freedom of expression, including for the press, and the government respected this right. The justice minister conceded the unconstitutionality of some provisions of the internet law, which had previously prescribed a 15-year prison term and a fine of three million dalasi (D) (\$63,800) for anyone convicted of using the internet to spread false information, make derogatory statements, incite dissatisfaction, or instigate violence against the government or public officials. The justice minister also conceded the unconstitutionality of the sedition law, which prescribed a fine of D50,000 to D250,000 (\$1,060 and \$5,300) a jail term, or both, for anyone found guilty of contempt and exciting disaffection against the person of the president or the government. The president promised to hold semiannual press conferences.

Freedom of Expression: The seven most prominent daily newspapers freely published editorials critical of the government without fear of reprisal. Radio stations throughout the country included regular programming that featured

political and civil discourse with live call-in comments and in-studio interviews. The country's state-run broadcaster Gambia Radio and Television Services (GRTS) was a platform for political discourse. The GRTS current affairs show *Face the Nation* brought together policymakers, including cabinet ministers, to discuss and review government policies.

In previous years individuals who publicly or privately criticized the government or the president risked government reprisal.

Press and Media Freedom: Independent media were active and expressed a variety of views without restriction. The Gambia Press Union filed a lawsuit in 2015 against the government regarding internet and sedition laws introduced by the Jammeh administration. The case resumed on November 22 when the Barrow administration conceded the unconstitutionality of parts of the law but maintained that the provision in the law against false news places “reasonable restrictions necessary in a democracy.” The lawyer for the Press Union argued that the “laws were made in excess of authority, therefore not constitutional and should be removed from the country’s law book.” The Supreme Court adjourned the case until May 2018.

Violence and Harassment: A news reporter from the *Foroyaa* newspaper was subjected to verbal and physical abuse at a press conference held by the UDP in March. Supporters of the party attacked the reporter after he posed a question to the party leader that was deemed sensitive. The party leader quickly condemned the attack and defended the reporter’s right to ask questions.

Internet Freedom

The Jammeh administration shut down internet access on the eve of the 2016 presidential election for 48 hours, as the president attempted to restrict information regarding the voting process and election results. During the year the government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. The Africa Telecommunications Report 2016 estimated that 16.9 per cent of the population had internet access.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, but the government at times restricted the freedom of peaceful assembly.

Freedom of Peaceful Assembly

The constitution provides for the freedom of peaceful assembly, although police permits were required for public gatherings. In April the Gambia Democratic Congress (GDC) political party was denied a police permit to hold a political rally in the town of Brikama. Police said the denial of the permit was not politically motivated but was a result of information from an intelligence report that required further investigation.

Members of the Alliance for Patriotic Reorientation and Reconstruction Party sought a police permit to celebrate the 23rd anniversary of the July 22 coup d'etat in which former president Jammeh seized power. Police denied the permit and invoked a government press release stating that the day should not be “glorified by any well-meaning Gambian.”

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern. UNHCR coordinated government efforts with the International Organization for Migration, the Gambia Red Cross Society, and other agencies to provide this protection and assistance.

During the political impasse and turbulence leading up to the 2016 presidential elections, more than 76,000 individuals reportedly fled to neighboring countries, the large majority of those going to Senegal. More than 75 percent of them were

women and children. At the end of the political impasse, a large majority were repatriated. The government sent buses to border areas to transport individuals and also provided ferry services from Senegal free of charge.

In-country Movement: Police and immigration personnel frequently set up security checkpoints at strategic locations demanding personal identification documents from individuals. Individuals found to be without proper documentation were subject to detention or forced to pay bribes.

Foreign Travel: Government employees required travel clearances from the Office of the President or of the Vice President before going on trips abroad, whether on an official mission or personal travel.

Protection of Refugees

Access to Asylum: The law provides for granting refugee status under the 2008 Refugee Act. The Gambia Commission for Refugees worked with UNHCR on protection of refugees.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The country held a presidential election in December 2016, in which Adama Barrow, the candidate of an opposition coalition, defeated Yahya Jammeh, the incumbent. The election was largely considered peaceful and credible. The defeated incumbent initially accepted the results, before declaring them “null and void,” alleging irregularities in the process. This led to a six-week political impasse before Jammeh dropped his claims and went into exile, bowing to regional and international pressure and the threat of force from ECOWAS soldiers massed on the country’s borders. The country also held legislative elections in April, which were mostly described as free and fair. Mama Kandeh, leader of the GDC, rejected the results, claiming to have evidence that would expose the unfairness of the entire process. As of November Kandeh had yet to provide any evidence.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process, and they did participate. Evidence suggested cultural constraints on women's participation in the political process, as they were greatly outnumbered in cabinet and parliamentary positions.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by government officials, and the government generally implemented the law; however, officials sometimes engaged in corrupt practices with impunity.

Corruption: In August the Barrow administration set up a Commission of Inquiry to probe the financial dealings of former president Jammeh. The commission's mandate was extended in October through mid-2018. The commission interviewed many former government employees and business associates of former president Jammeh in an effort to uncover the vast illegal financial dealings of the former president.

Financial Disclosure: The law subjects both appointed and elected public officials to financial disclosure, but under the previous regime the government seldom enforced these laws, and no particular agency was mandated to monitor and verify financial disclosures. Cabinet ministers of the Barrow administration were ordered by the president to declare their assets to the ombudsman and all did so, but the Office of the President announced that these declarations would not be made public, citing privacy concerns.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 causes. Government officials were usually cooperative and responsive to issues raised by human rights groups during the year. The NGO decree enacted in 1996, which 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), had yet to be revoked by the National Assembly, despite the Barrow administration's pledge to create a more conducive environment. The government did not take actions against any NGO during the year. NGO Affairs, the government agency that oversees NGO activities, was placed under the purview of the Ministry of Local Government.

Government Human Rights Bodies: The Office of the Ombudsman operates a National Human Rights Unit (NHRU) with a mandate of promoting and protecting human rights and supporting vulnerable groups. The office was granted unrestricted access to prisons, police cells, and all places of detention in August.

During the year the NHRU unit addressed complaints regarding unlawful dismissal, termination of employment, unfair treatment, and illegal arrest and detention. According to its report presented to the National Assembly on February 3, the office received 127 complaints in 2014. Of these, authorities resolved 42 percent of cases in favor of the complainants, dismissed 22 percent for lack of merit, and discontinued 12 percent considered frivolous; 2 percent of complaints were withdrawn, and 23 percent were pending.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The penalty for rape is life imprisonment; however, rape was a widespread problem. The maximum penalty for attempted rape is seven years' imprisonment without an option of a fine. Spousal rape is not illegal and was widespread; police generally considered it a domestic issue outside its jurisdiction. A 40-year-old man was sentenced to 10 years in prison for raping and impregnating a 14-year-old girl in August. Most cases of domestic violence went unreported due to victims' fear of reprisal, unequal power relations, stigma, discrimination, and pressure from family and friends not to report. Conviction of domestic violence carries a fine of D50,000 (\$1,060), imprisonment of two years, or both.

Female Genital Mutilation/Cutting (FGM/C): FGM/C is a deeply rooted practice in society, and many are hesitant to report FGM/C cases, either because they do not agree with the law or because they are uncomfortable reporting family members or neighbors. Legislation passed in 2015 bans FGM/C. The law stipulates imprisonment of not more than three years, a fine of D50,000 (\$1,060), or both, for anyone found to have circumcised a female child; if the child dies, the penalty is life imprisonment. Failure to report the practice may lead to a fine of D10,000 (\$210). Despite the law the practice was very prevalent, with approximately 76 percent of girls and women between the ages of 15-49 believed to have undergone FGM/C. NGOs, including the Gambia Committee on Traditional Practices Affecting the Health of Women and Children, Wassu Gambia

Kafo, Safe Hands for Girls, and Think Young Women, were at the forefront of combatting FGM/C in the country. (For more information, see data.unicef.org/resources/female-genital-mutilation-cutting-country-profiles/).

Sexual Harassment: The law prohibits sexual harassment and conviction provides for a one-year mandatory prison sentence. Sexual harassment was widely prevalent, but not commonly reported due to social pressures and unwillingness to challenge the offenders.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The constitution provides for equality of all persons before the law, and it stipulates that no person shall be treated in a discriminatory manner irrespective of their race, color, gender, language, religion, political or other opinion, national or social origin, property, birth, or other status. Its provisions against discrimination do not apply to adoption, marriage, divorce, burial, and devolution of property upon death. 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, access to credit, owning and managing a business, or in housing or education.

Children

Birth Registration: Children derive citizenship by birth within the country's territory or through either parent. Not all parents registered births, but this did not preclude their children from receiving public health services. Birth certificates were easily obtained in most cases. For additional information, see Appendix C.

Education: The constitution and law mandate compulsory, tuition-free education through the secondary level. Under the tuition-free education plan, however, families often must pay fees for books, uniforms, lunch, school fund contributions, and examination fees. An estimated 75 percent of primary school-age children enrolled in primary schools. Girls constituted approximately half of primary school students and a third of high school students.

Child Abuse: The *Gambia Multiple Indicator Cluster Survey 2010* revealed that approximately 90 per cent of children between ages two and 14 were subjected to at least one form of psychological and/or physical abuse, while 18 percent were severely punished physically. Authorities generally enforced the law when cases of child abuse or mistreatment came to their attention and imposed criminal penalties in serious cases.

Early and Forced Marriage: In 2016 the National Assembly made the marriage of children under 18 illegal under the Children's (Amendment) Act 2016. Approximately 33 percent of girls below the age of 18 were married, and 8.6 percent before the age of 15. Government sensitization campaigns were undertaken in several areas of the country, particularly in remote villages, to create awareness of the act. For additional information, see Appendix C.

Sexual Exploitation of Children: The law provides for 14 years' imprisonment for conviction of commercial sexual exploitation of children and five years for involvement in child pornography. The minimum age for consensual sex is 18 years. Local NGOs believed criminals exploited children, who were often seeking to support their families, in prostitution in brothels and that tourists staying in remote guesthouses and motels were involved in the sexual exploitation of children. Authorities instructed security officers in the tourism development area to turn away all minors who approached the main resort areas without an acceptable reason. NGOs largely blamed many of the difficulties in reporting and prosecuting sexual abuse on a national culture of secrecy with regard to intimate family issues and a penchant for resolution outside of the formal system.

Displaced Children: In August immigration officials in the capital, Banjul, repatriated 70 Senegalese children ages 11 to 16 to Senegal after a raid. According to immigration officials, the children lived on the streets of the capital without supervision or proper documents.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

There was no known Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The constitution prohibits discrimination against or exploitation of persons with disabilities, although it does not expressly reference the kinds of disabilities protected, particularly as regards access to health services, education, and employment. Authorities effectively enforced these provisions. There is no explicit legal guarantee of access to transportation, nor any requirement to provide for access to buildings for persons with disabilities. No law or program stipulates persons with disabilities should have access to information or communications. The law requires judicial proceedings involving a person with disabilities to take into account the disabilities.

The Department of Social Welfare of the Ministry of Health is responsible for protecting the rights of persons with disabilities and worked with the Gambia Organization for the Visually Impaired and the School for the Deaf and Blind to help educate children with disabilities and to develop relevant skills. Most children with disabilities, however, did not attend school. The department also worked with international donors to supply wheelchairs to some persons with disabilities. The NHRU, a unit of the Office of the Ombudsman, sought to promote the rights of women with disabilities. Persons with disabilities received priority access to polling booths on election days.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

In 2014 then president Jammeh signed into law an amendment to the criminal code making "aggravated homosexuality" a crime punishable by life imprisonment. The bill defines "aggravated homosexuality" to include serial offenders or persons with a previous conviction for homosexual activity, persons having same-sex relations with someone under the age of 18 or with members of other vulnerable groups, or a person with HIV having same-sex relations.

President Barrow dismissed homosexuality as a nonissue in the country, citing more pressing priorities. As a result the government had not articulated its intention whether it would attempt to reverse or change the aggravated homosexuality bill. The provisions of the bill were not enforced.

There was strong societal discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals. There were no LGBTI organizations in the country.

HIV and AIDS Social Stigma

Societal discrimination against persons infected with HIV/AIDS sometimes hindered identification and treatment of persons with the disease and resulted in their rejection by partners and relatives when their condition became known. The government took a multisectoral approach to fighting HIV/AIDS through its national strategic plan, which provided for care, treatment, and support for persons with or affected by HIV/AIDS. The plan, enacted in 2015, also included HIV-prevention programs for high-risk populations.

There were no reports on HIV-related stigma and discrimination in employment, housing, or access to education or health care.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The Labor Act provides that workers, except for civil servants, domestic workers, and certain other categories of workers excluded from the protection of the law, are free to form and join independent unions, conduct legal strikes, and bargain collectively. Military personnel, police officers, other civil service employees, and domestic workers are prohibited from forming unions or going on strike. Additionally, the law authorizes the minister responsible for labor matters to exclude any other category of workers from the protection of the Labor Act. Unions must register to be recognized. The law requires a minimum membership of 50 workers for the registration of a trade union. The law also provides that the registrar of unions may examine without cause the financial accounts of workers' associations.

The law restricts the right to strike by requiring unions to give the commissioner of labor written notice 14 days before beginning an industrial action (28 days for

actions involving essential services). Police and military personnel had access to a complaints unit, and civil servants could take their complaints to the public service commission or the government's personnel management office. An employer may apply to a court for an injunction to prohibit industrial action deemed 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. The law prohibits retribution against strikers who comply with the law regulating strikes. Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the law provides for reinstatement of workers fired for union activity. The law also sets minimum contract standards for hiring, training, and terms of employment and provides that contracts may not prohibit union membership. Lack of enforcement of the labor law contributed to persistent violations. There are no separate regulations supporting the labor law. Although there were minimal contentious union activities or labor disputes, the government generally did not effectively enforce the law. Resources, inspections, and remediation were inadequate. Penalties did not serve as a deterrent, as they were rarely handed down due to a lack of resources and inspections.

Although trade unions were small and fragmented, collective bargaining took place. Unions were able to negotiate without government interference; however, they lacked experience, organization, and professionalism and often turned to the government for assistance in negotiations. Collective bargaining, arbitration, or agreements reached between unions and management determined union members' wages, which generally exceeded legal minimums. The Department of Labor registered most collective agreements, which remained valid for three years, after which they could be renewed.

The government intervened to assist workers whose employers had fired or discriminated against them. For example, in 2015 the Department of Labor and the Gambia Workers Union supported the case of 30 Capital Gas employees alleging wrongful termination by the company. Complaints also included nonpayment of overtime, annual leave, and nonpayment of social security. Capital Gas agreed to a settlement in which it paid its former employees D1.15 million (\$24,500).

There were no reports of violations of collective bargaining rights or of employers refusing to bargain, bargaining with unions not chosen by workers, or using other hiring practices to avoid hiring workers with bargaining rights.

b. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit all forms of forced or compulsory labor, including that of children, but the government did not effectively enforce these laws.

Officials took part in a number of programs designed to increase their sensitivity to the problem and educate them on ways to investigate and combat it, but child labor continued to occur. Women and children were primary targets subjected to trafficking and commercial sexual exploitation. Inadequate resources made enforcement difficult. While the Labor Act does not specifically prohibit slavery or forced labor, it sets forth general employment protections, including contractual rights, freedom of association, the right to collective bargaining, and disciplinary procedures in the workplace, among other important labor regulations. Penalties were insufficient to deter violations.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The constitution prohibits economic exploitation of children under age 16, and regulations prohibit children under 18 from engaging in exploitive labor or hazardous employment, including mining and quarrying, going to sea, carrying heavy loads, operating heavy machinery, and working in establishments serving alcohol. The Children's Act sets the minimum age at 16 for light work and at 12 for apprenticeship in the informal sector.

The Department of Labor is responsible for enforcing child labor laws and conventions on the worst forms of child labor, but it did not effectively do so. The government took no action to prevent or combat child labor during the year. The labor commissioner registered employee labor cards, which include a person's age; the law authorizes the commissioner to enforce child labor laws. The Labor Act establishes penalties of imprisonment for up to five years and a fine of D100,000 (\$2,130) for violations related to the employment of children. The Children's Act also establishes penalties of imprisonment and fines for any person who contravenes the provisions related to child labor. Enforcement inspections rarely took place.

Child labor in the informal sector was difficult to regulate. Rising school fees combined with stagnating incomes prevented some families from sending their

children to school, contributing to child labor. In urban areas some children worked as street vendors, domestic laborers, or taxi and bus assistants. There were a few instances of children begging on the streets. Children between the ages of 14 and 17 also worked in carpentry, masonry, plumbing, tailoring, and auto repair. Children in rural areas worked on family farms.

Implementation of the Children's Act and prosecution of suspected offenders also remained infrequent. Penalties for violations (including minimum terms of imprisonment for the offense of trafficking in persons from 15 to 50 years of age) were insufficient to deter violations.

See also the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings.

d. Discrimination with Respect to Employment and Occupation

The constitution prohibits discrimination based on race, color, gender, language, religion, political or other opinion, national or social origin, disability, sex, property, birth, or other status.

Employment in the formal sector was open to women at the same salary rates as men, and no statutory discrimination existed in other kinds of employment; however, societal discrimination lingered, and women generally worked in such pursuits as food vending and subsistence farming. The law also prohibits discrimination in private companies certified by the Department of Labor (see section 6).

There were no reports of discriminatory practices with respect to employment or occupation. The International Labor Organization reported the government generally supported elimination of employment discrimination. The law defines the criteria that prohibit discrimination with respect to employment and occupation, and the government effectively enforced the law. Under the Labor Act, a person who commits an offense is liable on conviction to a fine not exceeding D50,000 (\$1,060) for each offense. The penalties appeared to be sufficient to deter violations.

Migrant workers enjoy the same legal protections, wages, and working conditions as citizens.

e. Acceptable Conditions of Work

The minimum wage was D50 (\$1.06) per day, although this applied only to the 20 percent of the workforce employed in the formal sector. The government considered the national poverty baseline to be D38 (\$0.81) per person per day. Employers paid most workers above the minimum wage. The Department of Labor is responsible for enforcing the minimum wage; however, penalties for violation were rarely enforced. Most workers were employed in the private sector 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 basic legal workweek is 48 hours within a period not to exceed six consecutive days. The government's workweek consists of four eight-hour workdays Monday through Thursday and a four-hour workday on Friday. The private sector typically operates from Monday through Saturday. There are no limits on hours worked per week and no prohibition of excessive compulsory overtime. Regulations mandate a 30-minute lunch break. Regulations entitle government employees to one month of paid annual leave after one year of service. The government does not pay most government employees overtime compensation. Government workers holding temporary positions and private-sector workers, however, receive overtime pay calculated per hour. Private-sector employees receive between 14 and 30 days of paid annual leave, depending on length of service. There is no exception for foreign or migrant workers.

The law specifies the safety equipment 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 provide for compliance with occupational safety and health standards. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the Labor Department. The law protects foreign workers employed by the government; however, it provides protection for privately employed foreigners only if they have a valid work permit.