



EXECUTIVE SUMMARY

The Gambia*



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INTRODUCTION

The Republic of The Gambia is one of the smallest countries in Africa and became independent from Britain in 1965¹. The Gambia's legal system incorporates common law, customary law and Sharia law². In 2012, The Gambia's per capita income was the tenth lowest in the world³. Nearly 60 percent of the poor in The Gambia are under the age of 20⁴. In recent history, The Gambia has been subjected to cyclical environmental disasters⁵, health shocks and chronic illness⁶ which place children in vulnerable positions. Due to limited resources, a complicated legal system and a weak public sector⁷, coupled with harmful cultural and traditional attitudes, the implementation of child protection measures is difficult.

Child prostitution is a significant problem in The Gambia. Unlike in other parts of the world, third parties in The Gambia primarily act as 'agents' rather than 'captors' of children who are involved in prostitution⁸. Even more concerning is the practice of families and parents pressuring or encouraging children to become involved in prostitution⁹. The *Children's Act 2005 (CA)* defines a child as anyone under 18 years of age and prohibits the prostitution of children providing serious punishments for child prostitution and related offences¹⁰. However, this provision is subject to any applicable personal law and the implementation of the law remains rather

piecemeal due to a lack of law enforcement resources and a general lack of awareness of child rights.

The Gambia is a source, transit and destination country for **trafficking in children for sexual purposes**¹¹. Children from nearby West African countries are trafficked into The Gambia for commercial sexual exploitation, primarily with tourists¹². There are extensive legislative and policy provisions to combat, protect and assist children who are victims of trafficking in The Gambia. The *Trafficking in Persons Act 2007* prohibits all forms of trafficking, including trafficking in children for sexual purposes¹³. However, implementation has been slightly hindered by a lack of resources, training and organisation. In 2014, the US Department of State downgraded The Gambia to Tier 3 in its Trafficking in Persons Report¹⁴.

There is extremely limited information and data available on **child sexual abuse materials/child pornography** in The Gambia. Gambian law on this matter is extremely under-developed and does not address some of the key concerns outlined in the *Rio de Janeiro Declaration (2008)*¹⁵. Gambian law is silent on the issue of 'grooming' children and does not provide for the criminalisation of knowingly accessing or mere possession of child sexual abuse materials¹⁶. The Gambia

also does not have any legal or policy provisions that require Internet Service Providers or financial institutions to monitor transactions for suspicious behaviour¹⁷.

The sexual exploitation of children in travel and tourism is a significant problem in The Gambia and the government has put in place various measures to combat it. The reliance on tourism by The Gambia may lead tourism providers to satisfy any requests by tourists, including providing the opportunity to engage in the sexual exploitation of children. Although there has been a significant push to combat CSEC in tourism through the enactment of extensive new laws, policies and training, there have been only a handful of cases brought to court and even fewer that have resulted in successful prosecution. In 2011, The Gambian Tourism Board (GTB) launched a training manual on CSEC in tourism but gaps remain in the protection of children from

commercial sexual exploitation in travel and tourism¹⁸.

Child, forced and early marriages are traditional practices in Gambian culture and cases relating to early or forced marriage often times go unreported because of privacy concerns or fear of social stigmatisation¹⁹. According to UNICEF, 36 percent of Gambian women have been married or in a union before the age of 18²⁰.

In The Gambia, **sexual exploitation in schools** is widespread. Children, especially girls, are often forced to engage in sexual acts with teachers in exchange for reward or compensation²¹. The Ministry of Basic and Secondary Education has conducted some sensitisation on the issue by distributing guides to teachers; however, the inclusion of this issue in the school curricular is needed²².

NATIONAL PLANS OF ACTION

There are a number of National Plans of Action (NPAs) that cover the protection of children in The Gambia like the *National Action Plan on Orphans and Vulnerable Children (2007 – 2015)* and the *National Plan of Action against Human Trafficking (2012 – 2016)*. Both NPAs cover child protection generally. There was also a NPA specifically

on the protection of children from all forms of CSEC called the *National Plan of Action to Combat Sexual Abuse and Exploitation of Children (2004 – 2009)*. A new draft CSEC NPA for the period 2013 – 2016 was developed, but as of the writing of this report, it had not yet been nationally validated²³.

COORDINATION AND COOPERATION

There is a significant lack of coordination and cooperation between child protection stakeholders who operate within The Gambia. The only area where there is some cooperation between stakeholders is in regard to case management. However, there is no definitive set of rules, procedures or standards agreed upon by all stakeholders on case management coordination and cooperation which has led to a duplication

of activities and responsibilities.

The **Department of Social Welfare (DoSW)** is the primary coordinating body responsible for child protection in The Gambia. In 2012, the DoSW set up a National Child Protection Committee (NCPC) tasked with coordinating child protection activities at the national level²⁴. The DoSW also provides specific coordination in relation to CSEC in

tourism. The DoSW accepts reports of CSEC in tourism and then notifies the Tourism Security Unit (TSU) which is responsible for enforcing all CSEC-related laws and also preventing children from entering tourist areas unaccompanied. The DoSW also assists with coordination in relation to child victims of trafficking. The DoSW operates a national hotline where suspected trafficking cases can be reported²⁵.

The National Agency against Trafficking in Persons (NAATIP) is the agency responsible for administering and monitoring the implementation of the *Trafficking in Persons Act 2007 (Trafficking Act)*. NAATIP had an action plan for 2012-2014 to implement preventive activities mainly focused on sensitising communities²⁶. The functions of NAATIP include: receiving and investigating reports of activities of trafficking; cooperating with governments of other states in the investigation and prosecution of trafficking offences; strengthening cooperation between all stakeholders; and taking charge, supervising and coordinating the recovery of victims²⁷. Often, the cases that NAATIP receives are jointly investigated with either the police or Immigration. This joint investigation “strengthens team work, reduces traumatising of the victims, reduces duplication and minimises resource wastage.”²⁸

Child Protection Alliance (CPA), Child Fund, UNICEF and the DoSW collaborated together to design and establish **Community Child Protection Committees (CCPC)**²⁹. The membership of the Committees is diverse and can include religious leaders, women leaders, child representatives, and any other interested stakeholders³⁰. CPA has provided training for CCPC members on child protection laws, identification of children at risk and children in need of special protection, counselling skills and techniques, child friendly interviewing and referral support services³¹. CCPC may refer certain cases to the appropriate institution; however, sometimes they will bring together stakeholders at the community level to address the issue³².

Most of the examples of regional and international coordination and cooperation by The Gambia are in relation to human trafficking. The Gambia created and adopted a NPA for 2012- 2016³³. Additionally, The Gambia signed a *Multilateral Cooperation Agreement* with Central African countries on the issue of human trafficking³⁴. The Gambia also has a bilateral agreement with Ghana in relation to human trafficking³⁵. Internationally, The Gambia has signed and ratified several bilateral agreements in relation to human trafficking such as its 2013 agreement with Taiwan on *Cooperation on Immigration Affairs and Human Trafficking Prevention*³⁶.

PREVENTION

The Gambian government conducts a small number of prevention activities usually in collaboration with NGOs which carry out advocacy and research activities, provide training to agencies and departments on child protection issues, sensitise communities on child protection and other relevant issues and provide various support to communities to empower them to improve their lives.

CPA is one of the most involved child protection stakeholders in regard to awareness raising activities, including the creation of radio shows to sensitise listeners to the issue of child rights and creating a documentary on violence against children³⁷.

There has been extremely limited training and education provided to stakeholders

from the Gambian government with a few exceptions. For example, CPA is the main and most active training provider and capacity builder having provided training to various stakeholders including the Gambian Armed Forces, police and Immigration officials³⁸. CPA has also conducted information workshops with tourist professionals and members of the TSU on CSEC issues in tourism³⁹.

The GTB has been active in promoting its own *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*. The Code operates differently in The Gambia in comparison to other countries because it is a government-driven initiative, as opposed to an industry-driven initiative. In fact, it is mandatory for any tourism business to sign up to the Code in order to obtain an operating licence in the Tourism Development Area (TDA)⁴⁰. However, there is extremely limited involvement of the information technology (IT) industry and Information and Communications Technology (ICT) providers in The Gambia.

The *Education Policy 2004-2015* seeks to improve the quality of education as well as

increase the number of children attending school, particularly among girls⁴¹. There is also a collaborative initiative between the Gambian government, UNICEF and CPA to advise local parent-teacher associations on the importance of girls' school attendance⁴². These initiatives, if successful, may reduce the general vulnerability of children to CSEC.

In 2010, only about 53 percent of The Gambia's children under five years old had a birth certificate⁴³. Birth registration is an important right which has been clearly identified in the Convention on the Rights of the Child (CRC) and other international human rights instruments⁴⁴. Many basic rights such as school registration and access to health care services are contingent upon birth registration documentation.

Most of the deterrence measures present in The Gambia are only deterrents for CSEC in tourism. There are several provisions that criminalise the organisation, promotion and assistance of CSEC in tourism in the *Children's Act 2005*⁴⁵ and the *Tourism Offences Act 2003*⁴⁶.

PROTECTION

The Gambia has signed and ratified the core international instruments relating to child protection against commercial sexual exploitation. The *Children's Act 2005 (CA)* remains the primary implementing legislation of the CRC, and applies to all children that reside in The Gambia.

The Gambia is a common law jurisdiction; however, customary and Sharia law are often engaged to address family law matters and issues concerning child rights⁴⁷. Sharia law applies to Muslim Gambians⁴⁸, which comprise more than 90 percent of The Gambia's population⁴⁹. A significant obstacle to the implementation of The Gambia's child

protection laws is the overlap between the Sharia legal systems and the national legal system, which sometimes results in inconsistent levels of legal protection for children.

Article 3(1) of the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (OPSC) obligates States to criminalise "offering, obtaining, procuring or providing a child for **child prostitution**" as well as any attempt to commit such an offence or to aid and abet the commission of such an offence⁵⁰. The *Gambian Criminal Code (1990)* also criminalises the procurement of children

for sex or prostitution⁵¹. The CA outlines a number of child prostitution related offences to include situations where someone drugs, coerces, deceives, seduces or forces a child to have sexual intercourse with someone⁵². Similarly, the CA makes it an offence to ‘take away or detain’ a child for the purpose of being sexually assaulted⁵³. Section 7 of the *Tourism Offences Act 2003* (TOA) also makes it an offence to procure a child for prostitution. Importantly, the CA makes procuring a child for prostitution an offence within or outside The Gambia⁵⁴.

The Gambia has ratified the OPSC but has not yet incorporated the definition of **child pornography** provided in the OPSC into Gambian law. Furthermore, The Gambia has yet to legislate and criminalise all acts in connection to child pornography such as the dissemination, exportation, offering, viewing and accessing of the material. Sections 31 and 38 of the CA make it an offence to procure, use or offer a child for the production of pornography or for pornographic performance. Section 8 of the TOA also makes it an offence for a tourist or any other person to engage in child pornography which includes the taking, distribution or publication of indecent photographs of children. Section 174 of the *Information and Communication Act 2009* (ICA) similarly criminalises anyone who distributes, shows, possesses with intent to distribute or show, or advertises, takes or permits to be taken any indecent photograph of a child.

Article 3(c) of the *UN Trafficking Protocol* states that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’⁵⁵. Within this definition, a child is considered anyone under the age of 18 years⁵⁶. The *Trafficking in Persons Act 2007* (Trafficking Act) is the primary piece of legislation that criminalises the trafficking of children

for sexual exploitation. In considering the offence, the Gambian courts will treat the offence as if it was committed at a place within The Gambia⁵⁷. Additionally, all offences under the Trafficking Act are extraditable offences⁵⁸. Both the CA⁵⁹ and the TOA⁶⁰ also have provisions criminalising the trafficking of children, whether on its own or in conjunction with the purpose of sexual exploitation or being forced or seduced into prostitution.

CSEC in travel and tourism has received significant attention in The Gambia as a growing problem. The TOA specifically legislates for the protection of children from sexual exploitation in tourism and has quite expansive provisions. There are also several provisions in Gambian law that criminalise those involved or connected to CSEC in tourism. Importantly, this includes the organisation, promotion or encouragement of foreign travel that promotes child prostitution⁶¹. The Gambian government has taken some policy measures to combat CSEC in tourism. In 2011, the GTB launched a training manual on preventing CSEC in tourism which was disseminated to the TSU and other stakeholders⁶².

The CA contains certain provisions that have **extraterritorial effect**, namely, the provisions relating to exportation and importation of children for prostitution⁶³, procurement of children for sex or prostitution⁶⁴ and foreign travel which promotes child prostitution⁶⁵. The Trafficking Act also sets out provisions with extraterritorial effect⁶⁶. Furthermore, The Gambia has signed a multilateral agreement to combat child trafficking in West Africa signed by Benin, Burkina Faso, Cote d’Ivoire, Ghana, Guinea, Mali, Niger and Togo⁶⁷.

There is no specific **child protection unit** set up in The Gambia which deals exclusively with CSEC-related issues. The police, Immigration and the DoSW have child welfare units

which deal with child protection cases and may include child protection cases involving CSEC⁶⁸. The police also have an additional vulnerable persons unit that assists people at risk and may also include child victims of sexual exploitation. The Gambia has a Police Child Welfare Unit on preventing, identifying, investigating and responding to child protection cases⁶⁹.

The Gambia does not have a national referral system to connect victims to support services. This means that **support services**, if available, are accessed in an ad hoc manner and many

victims eligible for support are not accessing these services. If available, these support services are extremely limited and there are no specialised services available to child victims of sexual exploitation. The main body responsible for the provision of support services for children is the DoSW.

CPA has conducted **training sessions for law enforcement officers** on methods for protecting child victims and prosecuting their traffickers⁷⁰. Additionally, CPA has staged training sessions for TSU on child protection in preparation for the tourist high season⁷¹.

CHILD AND YOUTH PARTICIPATION

There are several policies in The Gambia that seek the further participation of children and youth but these have not yet been actualised. The *National Youth Policy (2009 – 2018)* seeks to ensure the full engagement and participation of youth in the development of The Gambia⁷². Additionally, the draft CSEC NPA provides that the Ministry of Justice should establish a Children’s Parliament and support the building of a partnership between the proposed Children’s Parliament and the National Assembly⁷³ as well as organise a yearly national forum that enables children to engage regularly in decision making on national policies and programmes that affect them⁷⁴.

CPA is extremely active in encouraging and enabling child and youth participation. CPA develops children and youth leaders to voice concerns about their vulnerabilities, to assist in developing solutions and host general community discussions on CSEC. CPA

has also established specific CPA affiliated groups and projects, as well as more informal inter-organisational activities such as a drama competition on CSEC which drew together various schools on the issue⁷⁵.

The *Youth Partnership Project (YPP)*, implemented from 2009-2011, endeavoured to empower not only victims of CSEC, but also children at risk, with knowledge and skills so that they were able to protect themselves adequately. Through youth-led leadership trainings, peer support programmes, youth-led micro projects and shelter care services, children learned how to better protect themselves and others while actively lobbying duty bearers to uphold their commitments to combat child rights abuses⁷⁶. The YPP was also involved in the sensitisation of the larger Gambian community by creating radio and television programmes aimed at increasing awareness of CSEC issues⁷⁷.

PRIORITY ACTIONS REQUIRED

Child Protection Structures

The Gambia should enforce the provisions in the *Children's Act 2005* that grant the Children's Court jurisdiction over child protection cases and nationally validate the draft National Plan of Action against the Sexual Exploitation of Children of The Gambia 2013-2016 and begin implementation.

Prevention

The Gambia should implement standard and systemised methods for data collection. It should establish effective mechanisms to monitor the movement of child sex offenders through the establishment of a child sex offender registry and with effective collaboration with the relevant authorities in other countries.

Protection

The Gambia should establish appropriate access to justice mechanisms for child victims in all regions, not only in areas where Children's Courts are available. It should

also plan to enact and amend legislation to criminalise all acts in connection with child pornography.

The Gambia can enact legislation that gives all CSEC related offences extraterritorial effect, not just those related to prostitution and trafficking. More multilateral and bilateral agreements with countries on child trafficking can also be established.

Child Participation

The Gambia should expand the Children's Courts to more regions and establish the Children's Parliament, provided under the draft *National Plan of Action against the Sexual Exploitation of Children of The Gambia 2013-2016*.

Recovery and Reintegration

The Gambia should allocate further resources for the establishment of support services and shelters for children, particularly child victims of sexual exploitation.

Endnotes

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- prostitution become an inmate of or frequent a brothel either in The Gambia or elsewhere, is guilty of a misdemeanour. [...] Section 130: Any person who- (a) by threats or intimidation procures or attempts to procure any woman or girl to have unlawful carnal connection, either in the Gambia or anywhere; (b) by false pretences or false representations procures any woman or girl to have any unlawful carnal connection, either in the Gambia or anywhere; or (c) applies or administers to, or causes to be taken by any woman or girl any drug, matter or thing, with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl, is guilty of a misdemeanour.’
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- 61 Children’s Act 2005, section 32.
- 62 Man, F. and Bah, A. (2013) *Commercial Sexual Exploitation of Children related to Tourism & Reporting mechanisms in The Gambia*, provided by Defense for Children International, the ECPAT group in the Netherlands.

- 63 Section 26(1) 'No person shall- export from The Gambia any place outside The Gambia any child with intent that he or she may be, or knowing that it is likely that he or she will be forced or seduced into prostitution in that place; or import into The Gambia from any place outside The Gambia, any child with intent that he or she may be, or knowing that it is likely that he or she will be forced into prostitution anywhere in The Gambia.'
- 64 Sections 30 and 34. 'Section 30(1) No person shall procure a child to – (a) have sexual intercourse with any other person or persons either in The Gambia or any place outside The Gambia; (b) become a common prostitute, either in The Gambia or any place outside The Gambia; (c) leave The Gambia with intent that he or she should become a prostitute in any place outside The Gambia; or (d) leave his or her usual place or abode in The Gambia, with intent that he or she may engage in prostitution either in The Gambia or any place outside The Gambia. [...] Section 34 (1) A person who by false pretence, threat or intimidation of any kind procures a child to have sexual intercourse with any person or an animal, or for any person to use a sex gadget or device on the child, either in The Gambia or an place outside The Gambia; or administers to a child or causes a child to take any drug or other thing with intent to stupefy or overpower him or her in order to enable the person or any other person to have sexual intercourse with or to use a sex device or gadget on the child, commits an offence and is liable on conviction to a fine of five hundred thousand dalasi or imprisonment for ten year or to both the fine and imprisonment. (2) A person shall not be convicted of an offence under subsection (1) on the uncorroborated testimony of one witness.'
- 65 Section 32. '(1) No person shall organise, promote or encourage foreign travel which promotes child prostitution. (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of not less than two hundred thousand dalasi or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.'
- 66 Trafficking in Persons Act 2007, section 36. (1) A court in The Gambia has jurisdiction to try an offence under this Act where the act constituting the offence has been carried out – (a) wholly or partly in The Gambia; (b) anywhere, by a citizen of The Gambia or by a person who is ordinarily resident in The Gambia; (c) by a person on board a vessel or aircraft registered in The Gambia. (2) A court in The Gambia also has jurisdiction to try an offence under this Act where – (a) the victim of trafficking is a citizen of, or is ordinarily resident in, The Gambia; or (b) the trafficker is present in The Gambia and is not extradited.
- 67 Child Protection Alliance, *Child Sex Tourism Fact Sheet*, p6, provided by Child Protection Alliance.
- 68 Cabran, M., Jailobeava, K. and Joshua, L. (Draft), *The Gambia Child Protection Systems: Mapping and Assessment Report*, 11 February 2014, provided by Child Protection Alliance, the ECPAT group in The Gambia.
- 69 *Ibid.*
- 70 Camara, S. 'Gambia: Child Protection Alliance train prosecutors on legal issues', *Foroyaa Newspaper*, 1 March 2013, Accessed on 17 December 2013 from: <http://allafrica.com/stories/201303040859.html>.
- 71 Camara, A. 'CPA, stakeholders warm up for campaign against child sex tourism', *The Daily Observer*, 29 January 2013, Accessed on 19 December 2013 from: <http://observer.gm/africa/gambia/article/cpastakeholderswarm-up-for-campaign-against-child-sextourism>
- 72 *The Gambia National Youth Policy (2009-2018)*, Available at: http://planipolis.iiep.unesco.org/upload/Youth/Gambia/Gambia_National_%20Youth_Policy_2009_%202018.pdf.
- 73 'Goal 5, Objective 1', (Draft) *National Plan of Action Against Sexual Abuse and Exploitation of Children in The Gambia 2013-2016*, provided by Child Protection Alliance, the ECPAT group in The Gambia.

- 74 *Ibid.*
- 75 Child Protection Alliance, *Annual Report 2011*, p12, provided by Child Protection Alliance.
- 76 *Ibid.*, pp 27-30.
- 77 ECPAT International, 'Gambia: Breaking the Culture of Silence on CSEC and HIV/AIDS in Gambia', Youth Journal - Youth Partnership Programme: Empowering child survivors and at-risk youth against commercial sexual exploitation, 2012, p46, Accessed on 14 January 2013 from: http://resources.ecpat.net/EI/Publications/CYP/Youth%20Journal_FINAL.pdf; Child Protection Alliance, *Annual Report 2011*, p11, provided by Child Protection Alliance, the ECPAT group in The Gambia.