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THE GAMBIA

The Center for Family and Human Rights (C-Fam) is a nongovernmental organization that was founded in 1997 and has held Special Consultative Status with the UN Economic and Social Council since 2014. We are headquartered in New York and Washington, D.C., and are a nonprofit, nonpartisan research and advocacy organization that is dedicated to reestablishing a proper understanding of international law, protecting national sovereignty, and the dignity of the human person.

INTRODUCTION

1. In 2020, the ministers and high representatives of 34 countries met to launch the Geneva Consensus Declaration (GCD), in which they committed to promoting four objectives: improve women’s health, protect human life, strengthen the family as the basic unit of society, and defend the sovereignty of nations concerning their laws and policies to protect life.¹ The Gambia was one of the original signatories of the GCD. This report focuses on the Gambia’s fulfillment of its commitments to human rights in the context of the four pillars of the GCD.

THE GENEVA CONSENSUS DECLARATION

2. The language of the GCD is drawn exclusively from documents agreed by consensus, including core UN human rights treaties, the founding documents of the UN such as the Universal Declaration of Human Rights (UDHR), and major meeting outcomes such as the Beijing Declaration, and Platform for Action and the Programme of Action of the International Conference on Population Development.

PROTECTING WOMEN’S HEALTH

3. At the 1994 International Conference on Population and Development (ICPD), nations pledged “to enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.”² This commitment is echoed in the GCD, alongside reaffirmations of the importance of women’s equal rights and their contributions to society, both in terms of education, employment, and civic engagement and through the family. The unique and essential role of women as mothers was recognized in the Beijing Declaration and Platform for Action adopted at the 1995 UN Fourth World Conference on Women.³ Both of these landmark conferences, as well as the subsequent Millennium Development Goals and Sustainable Development Goals, include commitments to reduce maternal and child mortality, and while significant progress has been made around the world, critical gaps remain, especially for those in the poorest, most remote, and resource-deprived areas.
4. According to the Maternal Mortality Estimation Inter-Agency Group (MMEIG), the Gambia has seen a reduction in its maternal mortality ratio from 778 to 458 deaths per 100,000 live births between 2000 and 2020, a reduction of 40.2 percent.⁴ This is lower than the regional average, although maternal mortality in the sub-Saharan African region remains high. Recent research from the Ministry of Health of the Gambia identified the lack of access to emergency obstetric and neonatal care as a significant contributor to maternal and child deaths.⁵ Another factor is the scarcity of family doctors, exacerbated by too few new practitioners being trained as well as the issue of physicians leaving the Gambia in search of higher-paying jobs elsewhere.⁶ According to the World Bank, girls complete lower secondary school at a higher rate than boys, but adult literacy among women in the Gambia remains lower than that of men.⁷
5. Abortion is illegal in the Gambia except to save the life of the mother or in cases of severe fetal impairment.⁸ These exceptions were included in the Women’s Act 2010.⁹ Maternal mortality had been declining in the Gambia before the 2010 Act, and data from

the World Bank shows that the steepest declines in deaths occurred before 2010.¹⁰ Progress toward further reducing maternal mortality continues to be made, even as the Gambia retains its protections for the unborn in its law. Furthermore, public opinion continues to disfavor abortion, including among women’s rights advocates, many of whom view it as morally wrong.¹¹

6. In contrast, saving the lives of mothers and children through uncontroversial, reliable best practices is not politically controversial and would not offend the moral values and religious beliefs held by many Gambians. Ensuring a sufficient number of health care providers and improving maternal and child health care, including emergency obstetric and neonatal care, requires both financial resources and political will, but would reduce maternal mortality and morbidity as well as improve the health and lives of all Gambians. Further maternal health gains would be achieved by ensuring that children—especially girls—have access to secure, quality education, including secondary education. Such a strategy would be in line with the Gambia’s efforts to achieve its Sustainable Development Goals targets, in keeping with its human rights obligations, and consistent with its affirmation of the Geneva Consensus Declaration. All women, including mothers giving birth and those injured by abortion, will benefit from more robust healthcare systems with more providers and expanded services.

PROTECTING HUMAN LIFE

7. As mentioned previously, abortion remains highly controversial in the Gambia, and public opinion does not favor liberalizing the restrictions in the Penal Code concerning abortion.
8. In its previous UPR sessions, the Gambia received only two recommendations directly relating to abortion: in the Gambia’s third UPR, it was recommended by Iceland: "Amend legislation to decriminalize abortion in all circumstances as well as ensure that safe and legal abortion services and post-abortion care are available." This recommendation was marked as "rejected" (noted) by the Gambia. However, another recommendation from Spain called for the Gambia to “Eliminate legal discrimination against women, guarantee the effective application of the law prohibiting domestic violence and the law on sexual crimes as well as decriminalize voluntary termination of pregnancy and ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.” This was marked as “supported.”
9. The Gambia’s rejection of the recommendation from Iceland is entirely consistent with its human rights obligations as set out in the binding human rights treaties ratified by the Gambia as well as other international agreements. The 1994 International Conference on Population and Development (ICPD), as quoted in the GCD, states that “any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process.” The standard set at the ICPD has been repeatedly reaffirmed by international consensus, including at the adoption of the Sustainable Development Goals. No global human rights treaty ratified by the Gambia asserts a human right to abortion, or could reasonably be interpreted as including such a right.
10. Concerning the recommendation from Spain, to the extent that it calls for the decriminalization of abortion, the Gambia’s support for it seems inconsistent with its

position on the recommendation of Iceland and implies the Gambia's willingness to liberalize its abortion laws. Since the recommendation of Spain contains multiple parts, some of which may be agreeable to the Gambia, similar recommendations in the future could be given partial support, accompanied by an explanation of which parts are noted and which are supported.

11. As a signatory to the Geneva Consensus Declaration, the Gambia has expressed its position that abortion is not an international human right. It is therefore consistent with this position that the Gambia and other members of the Geneva Consensus Declaration coalition reject any and all UPR recommendations to liberalize their abortion laws, as such recommendations are not only inconsistent with national laws and priorities but also outside the scope of internationally agreed human rights standards and obligations.

SUPPORT FOR THE FAMILY

12. The GCD reaffirms the obligations of States regarding the family enshrined in international law, including the definition of the family as “the natural and fundamental group unit of society” and the recognition that it is “entitled to protection by society and the State.” Signatories to the GCD further committed to “support the role of the family as foundational to society and as a source of health, support, and care.”¹²
13. In Gambian law, there is no recognition of same-sex relationships, and homosexual behavior between either men or women is illegal. In the Gambia's previous Universal Periodic Reviews, it has received numerous recommendations to repeal the laws criminalizing homosexual activity and to explicitly eliminate discrimination on the grounds of sexual orientation and gender identity from several countries, and all of these have been marked as “noted” rather than “supported.” This consistent position of the Gambia reflects the fact that these issues are not subjects on which global consensus exists, nor are they included as rights in any binding international legal instrument to which the Gambia is a party. As summarized in the Family Articles, a project of the coalition Civil Society for the Family, the right to found a family is based on the union of a man and a woman, and “Relations between individuals of the same sex and other social and legal arrangements that are neither equivalent nor analogous to the family are not entitled to the protections singularly reserved for the family in international law and policy.”¹³
14. All human beings possess the same fundamental human rights by their inherent dignity and worth, including the right to equal protection of the law without any discrimination.¹⁴ Individuals who identify as lesbian, gay, bisexual, transgender, queer, etc., are protected from violence and discrimination to the same extent as any individual under the equal protection principle in human rights law. However, they are not entitled to special protections based on their sexual preferences and subjective gender identity as such.

NATIONAL SOVEREIGNTY

15. As stated in the GCD, about the legal status of abortion and the protection of the unborn, it is a matter of longstanding consensus that “each nation has the sovereign right to implement programs and activities consistent with their laws and policies.” However, opposition to this sovereign right of countries has become increasingly commonplace in

those parts of the United Nations system governed more by expert opinion or bureaucratic oversight than by the standard of negotiated consensus. There is no global mandate to pressure countries to liberalize their abortion laws or expand the categories for non-discrimination as a matter of international human rights law about, for example, sexual orientation or gender identity, and to the extent that mandate-holders engage in such behavior, they do so *ultra vires*.

16. Nevertheless, the frequency of such pressure has only increased toward countries whose laws restrict abortion to protect the unborn, or which maintain a traditional view of marriage and the family, in line with the human rights obligations expressed in the binding treaties they have ratified. Such nonbinding opinions have been elevated in many parts of the UN, although they have never been accepted nor adopted by consensus in the General Assembly.
17. The GCD, by anchoring its every assertion in a document adopted by consensus, reaffirms the centrality of the family, the rights of women and children and the fact that these rights are not upheld by abortion, and the importance of national sovereignty, especially in those places where global consensus does not exist.
18. Unlike other UN human rights mechanisms, the UPR provides a space for sovereign nations to speak to each other and provide encouragement to fulfill their human rights obligations. To the extent that this venue has been used to exert further pressure on countries to liberalize their abortion laws or redefine the family as a matter of national law and policy, global consensus on these matters must be upheld and promoted in the UPR as well, particularly by those countries that have already taken a stand in this regard by signing the GCD.

CONCLUDING RECOMMENDATIONS

19. We encourage the Gambia to continue protecting the natural family and marriage, formed by a husband and a wife, as the natural and fundamental unit of society.
20. The Gambia should continue to improve maternal and child health outcomes, including by increased investment in the training and provision of medical professionals and expanding access to emergency obstetric and neonatal care. Following the Gambia's commitments in the Geneva Consensus Declaration, this does not require the inclusion of abortion.
21. The Gambia should continue to assert the fact that abortion is not a human right in the context of multilateral negotiations, as well as in the Universal Periodic Review, following the Geneva Consensus Declaration, and call on its fellow signatories to do likewise.

¹ Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family, 2020. Available at <https://undocs.org/en/A/75/626>

² United Nations International Conference on Population and Development. (1994). "Programme of Action of the International Conference on Population Development," Cairo.

³ United Nations Fourth World Conference on Women. (1995). "Beijing Declaration and Platform for Action" (Annex II, Paragraph 29). Beijing.

⁴ World Health Organization, UNICEF, UNFPA, World Bank Group, and UNDESA/Population Division. Trends in maternal mortality 2000 to 2020. Available at <https://www.who.int/publications/i/item/9789240068759>

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- ⁵ Ministry of Health The Gambia, MRC Unit The Gambia at the London School of Hygiene & Tropical Medicine. Maternal and Newborn Health Research in The Gambia; Report on the Workshop to Identify National Maternal and Newborn Health Research Priorities. Banjul, The Gambia; 2024. Available at: <https://www.lshtm.ac.uk/media/81771>
- ⁶ Gyuse AN, Tor-Anyiin I, Mwankwon JP, Nyan O, Saine H. Strengthening healthcare through family medicine training in The Gambia: The journey so far. *Afr J Prim Health Care Fam Med*. 2024 Apr 25;16(1):e1-e3. doi: 10.4102/phcfm.v16i1.4446. PMID: 38708723; PMCID: PMC11079361. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC11079361/>
- ⁷ The World Bank, Gender Data Portal: The Gambia. Available at: <https://genderdata.worldbank.org/en/economies/gambia-the>
- ⁸ The Gambia. Criminal Code Act No. 25 of 1933. Available at: <https://www.lawhubgambia.com/criminal-law-database>
- ⁹ The Gambia. Women's Act 2010. Available at: <https://www.lawhubgambia.com/womens-act-2010>
- ¹⁰ FactCheck Gambia. "FACT-CHECK: How is Gambia Doing on Maternal Mortality Since 2017?" August 13, 2022. Available at: <https://factcheckgambia.org/fact-check-how-is-gambia-doing-on-maternal-mortality-since-2017/>
- ¹¹ Nabaneh S. The Gambia's Political Transition to Democracy: Is Abortion Reform Possible? *Health Hum Rights*. 2019 Dec;21(2):169-179. PMID: 31885446; PMCID: PMC6927371. Available at: <https://pubmed.ncbi.nlm.nih.gov/31885446/>
- ¹² Geneva Consensus Declaration, *ibid*.
- ¹³ Civil Society for the Family. The Family Articles. Available at <https://civilsocietyforthefamily.org/>
- ¹⁴ United Nations. Universal Declaration of Human Rights. 1948. Available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>