

NGO ALTERNATIVE REPORT

TO

GAMBIA GOVERNMENT'S INITIAL REPORT

ON

THE IMPLEMENTATION OF THE COVENTION ON THE

RIGHT OF THE CHILD

Submitted to: The UN CRC NGO Group in Geneva

By: The Association of NGOs (TANGO), The
Gambia

Mailing address: Fajara 'M' Section
PMB 392, Serekunda
Tel (220) 390525
Fax (220) 390521

Email: tango@ganet.gm

Website: <http://members.tripod.com/tangogm>

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FORWARD

I would like to take this opportunity to thank UNICEF on behalf of the NGO community for providing us with copies of the Initial report of The Gambia on the United Nations Convention on the Rights of the Child (CRC). Without UNICEF's assistance, perhaps the NGO community would not have had the opportunity to see this important report although we are stakeholders in the implementation of the CRC and partners with Government in the development process of our country.

Article 45 of the CRC gives the NGOs the opportunity to assume a monitoring role in a bid to ensure its effective implementation. This creates a unique occasion for the NGOs in The Gambia as in every other country to perform a pivotal role in enhancing the condition of life of Gambian children.

In keeping with Article 45 of the CRC therefore, the NGO community resolved to review and analyse the Gambia's Initial report and to prepare and submit an Alternative report to the Committee on the Rights of the Child. This is with a view to providing the Committee with a comprehensive picture regarding the implementation of the CRC.

The Association of Non-Governmental Organisations (TANGO) coordinated the preparation of the Alternative report. This institution is the umbrella organisation for NGOs in The Gambia consisting of 59 members including both national and international NGOs. TANGO provides the forum for NGOs to meet regularly to discuss issues of mutual concern and interest, share information and ideas about their respective activities and experiences and strategise together their field level activities.

During the preparation of the Alternative report, relevant documentation was reviewed and information sought from relevant institutions to substantiate the statements made. It is hoped that the information contained in it will provide the Committee with an independent perspective on the implementation of the CRC in The Gambia.

Ms Fatou Faye

Director, TANGO

Introduction

The Gambia is among the 191 state parties that ratified the Convention on the Rights of the Child (CRC) in 1990. Henceforth, state parties are required to submit initial reports on the implementation of the UN CRC two years after and every five years thereafter.

Within the CRC, NGOs are provided with the opportunity to participate in the advocacy, monitoring and reporting on its implementation. To this end, a taskforce was commissioned by TANGO to undertake an independent review of the initial report submitted by the Government of the Gambia on the implementation of the CRC and to prepare an alternative report.

The NGO alternative report is based on a section-by-section analysis of Government's initial report. This report was reviewed with a view to validating the information provided by Government based on the facts and realities on the ground.

ANALYSIS OF GOVERNMENT'S INITIAL REPORT

The introduction:

Government indicated in para 5 that the priority with regards to the implementation of CRC is on access to health, education, child protection and justice. Although we acknowledge the limited resources Government have, it is strongly felt that there should be no prioritisation in the implementation of the CRC. The overall implementation of the CRC should be holistic.

1 GENERAL MEASURES OF IMPLEMENTATION

Article 42: Publicity of the principle and Provision of the CRC:

The CRC was officially launched and disseminated at policy level by UNICEF Gambia. On the part of Government however, publicity and awareness raising on the provision of the CRC is generally low. Majority of Gambians particularly women and children knew little about the provision of the CRC. This is a concern to be given immediate attention if these advantaged and vulnerable groups are to demand for their rights. Although Government has acknowledged in the report the need for sensitisation on the CRC, little has been done to address the issue. The existence of the radio and television mentioned by Government, as opportunity for awareness raising does not serve such purpose. There is little evidence of the presence of CRC issues in the programmes of the Radio and Television.

Articles 4, 42 and 44: **Harmonisation of legislation**

It is clear from the initial report and realities on the ground that there is a need to harmonise the different laws and legislation of the Gambia in order to keep them in tandem with the provision of the CRC. At the moment there are conflicts between the provisions of the CRC and some of the guiding laws of the land, which contravenes the objectives of the convention and hence hinders its implementation. Government has recognized this fact but has so far done little to address the situation.

❑ **Mechanism for the co-ordination of policies relating to the rights of the child and monitoring of the CRC**

There is no structure or system in existence for the co-ordination of child related policies in the Gambia. This is evidenced among other things by the absence of a common definition for the child in the various codes, laws and acts in the Gambia. No mechanism is also in place for the monitoring of the CRC. However, consultations are in progress for the establishment of a National Commission on the Rights of the Child. UNICEF Gambia is making lots of efforts to ensure that the process is translated into practice. The Attorney General's Chambers has manifested some interest and commitment to work, with the support of UNICEF, and other stakeholders in at a latter stage, towards the establishment of a Commission on Children and Women's Right.

❑ **Publicity and dissemination of Country initial report**

Awareness rising regarding existence of the country initial report is very low. It is indeed a surprise to note that the existence of the report is not even known in some Government quarters not to mention at the grassroots level.

The drafting of the initial report was undertaken with little consultation with the NGO community. Civil society, women and children were not consulted or involved at all.

2 DEFINITION OF THE CHILD

In the Gambia there is no uniform definition of a child. The various laws, codes and the constitution provide different definitions of the child. The maximum age limits within the different definitions ranges from 14 - 21 years. This poses a fundamental constraint in the implementation of the CRC and also contravenes the provisions of the Convention, which has far reaching implications for the child. For instance, the armed forces act section 23(2) indicates that "*when a person enlisting has not attained the age of 18 years, his period of enlistment commence from the date he attains the age of 18*". This does not rule out the possibilities of child soldiers being enlisted in the armed forces for both now and the future.

3 GENERAL PRINCIPLES

Article 2: non-discrimination

It is evident that discrimination of many forms does exist in the Gambia as indicated in the initial report. Prominent among these are rights to inheritance, education and marital choices. In each of these cases the girl child stand to be disadvantaged compared to the boy child.

Articles 3,4,5 and 21: Principles of the best interest of the child

The initial report clearly indicates that protection of the best interest of child remains a fundamental issue at stake. However, there is reasonable doubt as to whether Government is committed to addressing the problem.

The report failed to give enough evidence on the progress made to protect the best interest of the child. Para 3 on page 17 of the initial report outlines efforts being made by the Department of Social Welfare to protect the interest of the child. The statements however, need to be backed up with statistical data to substantiate the progress made by the Department.

Article 6: **The right to life**

The initial report lays emphasis a lot on legislative provision on child abortion, baby abandonment and infanticide. No mention has been made on the occurrences of the practices and action taken against violators, although the practices have been occasionally happening. Whatever the case is, it is quite evident that such practices are not uncommon in the Gambia. Sixty-two (62) cases of baby abandonment were reported from 1994 - 2000. Sufficient data is difficult to obtain on these although, the incidences are growing much higher compared to the distant past.

Government need to re-enforce legislative provisions regarding these issues and also put in place a mechanism to monitor the incidences of cases.

Article 6(1): **Survival and development:**

Key elements of child survival include access to food, dental and primary health care and education. Decent means of survival and development for children is threatened by poverty. It is worth noting that more than 50% of Gambian children live in household that lacks the basic food requirements for its members. This is a serious implication on their health and education needs.

In the Gambia access to health and education is considered adequate if such facilities exist within 3km and 5 km within reached. Going by this standard, access to education and health

is fairly adequate in the Gambia. However, this represents only geographic access to such facilities but does not necessarily guarantee financial access. In many instances in the Gambia, people live close to education and health facilities but do not have access to them because they lack the financial capability to acquire them.

Developmental needs of children include nutrition and nutrition education, access to safe drinking water, access to basic education etc; the latter is rather inadequate on the side of the government. Gambia Government has pledged to provide only technical support to early Childhood Development in the Gambia through NGOs and private institutions engaged in ECD. This pledge has not been honoured in full with regards to the human resource aspect, the curriculum and end result of the training; which needs a lot of improvement and upgrading. In addition, the first five years of a child's life is the most important period in the total life of that individual who is also the future leader of the nation. Government particularly in the field of education to enable children to develop to their maximum capacity and contribute effectively towards the development of the Nation in future should give the holistic development of the individual.

Early childhood development, which is a fundamental factor of child development, is not given adequate attention by Government. Government's priority is focused on primary and tertiary education rather than on early childhood development. The few Early Childhood Development Centres that exist in the country are operated and managed by NGOs like the Christian Children Fund and the private sector who engage in limited consultation with Government on issues that concern children.

Article 12: Respect for the views of the child

In the Gambia as in many African countries, culture and tradition downplay the right to opinion for the child. Children in the Gambia have little room for participation in decision making both at national and household levels. At the national level they are not provided with adequate opportunities to express their political opinion though they have the right to vote at the age of eighteen, while at the household level they are subjects of recipients of

information as they have limited permission to speak in the midst of elders. It is a strong cultural norm that children should not, in most cases, participate in discussions where elders are present even though the discussions that ensue may affect them one way or the other.

This situation goes further to interfere with their career and social development, which sometimes is dictated by their parents at their detriment.

Evidence that young women are more prepared to speak against forced marriage are the increasing number of cases reported to the Department of State for Social Welfare. Seven (7) cases of such were reported in 1999/2000.

4 FAMILY Environments AND ALTERNATIVE CARE

Articles 9,10,18,20,21: Government's initial report has provided adequate information with regards these articles; we therefore have no additional comments to make.

Article 19: Abuse and Neglect

In the Gambia there is no legislative definition of abuse and neglect and child abuses and neglect is not uncommon. Most children who are at the guardianship of extended family relations and sympathisers are often victims of all forms of discrimination, abuse and neglect. Majority of these children does not receive adequate parental care and support and are often discriminated against children of relatives they stay with. Twelve (12) cases (7 physical, 4 neglect, and 1 sexual) of child abuse and neglect were reported to the Department of Social Welfare between 1999-2000. Although there is insufficient official data on these practices, there is undoubtedly a vast under reporting of such cases. This is a result of the fact that most victims do not know the right institution to refer their cases to, (Gambia Government/UNICEF Disability Survey 1998). The culture of silence in the Gambia and inadequate financial and human resource capacity of the Department of Social Welfare to monitor such incidences are also negating factors.

In the Gambia like all other Islamic states, it is a strong religious practice and belief that Muslims should undergo Islamic religious education in one form or another. This is to enable them have a proper understanding of the religion hence facilitate proper worshipping. In this regard, parents do send their children for this form of education. These children (known as Almudus) are usually taken very far away from their parents sometimes to a different country at the custodian of their teachers who are called Marabouts. It usually takes many years before the children re-unit with their parents.

However, the primary objective of this traditional education system is often misinterpreted by both parents and the marabouts, resulting to gross neglect and abuse of these children. Almuduism is growing to be a fundamental practice of child neglect and abuse in view of the provisions of the CRC. However the issue is quite complex and delicate to handle. There are two folds to the matter. Firstly, parents of these children regard *Almuduism* as a social off-load since the caring of the children will no more be their responsibility but that of the marabouts. Secondly the marabouts on the other hand, use these children as income generating forces for their livelihoods. Almudus are subjects of all kinds of harassment and suffering. Some of them could be seen sleeping in old cars and in the streets. The enforcement of legislative measures to abolish *Almuduism* as indicated in the Government report will do little good to address the situation. The approach should rather be something of more holistic and integrated in nature than legislative.

Article 27 (4): **Recovery of maintenance of the child**

It is worth acknowledging that the Department of Social Welfare has been very instrumental in the enforcement of the maintenance act and ensuring that children continue to enjoy support from their parents in cases of divorce, separation and other forms of abnormal relations. Parents are obliged by law in such cases to provide financial maintenance support to children. However the allotments are mostly insufficient to take care of the children's education and other necessities of life as required by the CRC. In addition some parents/guardians often divert such allotments for their own selfish interest hence defeating

the entire purpose of the scheme. Decision on the amount of money to be allotted to a child is often ad hoc, based on no clear guidelines and legislative measures.

The Department of Social Welfare must work closely with NGOs to monitor the usage, impact and problems associated with child maintenance allotment. Already some NGOs like Christian Children Fund have lots of experience in this area.

5 BASIC HEALTH AND WELFARE

Article 23: Disabled children

Stated in the Government report on page 22 article 23 para1; is that all legislative; infrastructure and administrative support are already in place to address access to basic services and facilities by the disabled. However, this claim is questionable. Disabled children are denied access to the school of their choice and other public places due to the nature of infrastructural facilities provided which is not user friendly for such children, (Gambia Government/UNICEF disability survey 1998). The people do not know legislation on such issues as indicated in the report if they exist at all. Government in the initial report recognise the problems of discrimination but again there is little evidence of action.

Article 24: Health and Health Services

On page 28, para 4, the initial report should have indicated the current statistics on maternal and childhood mortality rates as well as contraceptive use even though the targets of reducing them are envisaged to be achieved in 2003. This will give an indication of how well Government has moved towards achieving these targets.

As mentioned earlier, geographic access to health facilities is fairly adequate. However this does not match financial capabilities of families to meet medical cost. The Primary Health Care program has been very successful particularly in the area of child Immunisation. However most Primary Health Care posts established at village level are not operational due

to lack of drugs, equipment and adequate support for the Village Health Workers. In the rural areas, movement of teams of the Maternal and Child Health Services are constrained by poor communication networks in very remote communities and sometimes lack of the required logistical support to ensure effective delivery of services.

Major health facilities are in place in more than three-quarters of the Divisions in the country. They are however beset by inadequate drugs, electricity and communication facilities. Over congestion is a major problem encountered at the Children's ward of Royal Victoria Hospital in Banjul (the country's major health facility) where it is not uncommon to see 3- 4 sick children sharing a bed.

In regards to Harmful Traditional Practices particularly Female Genital Mutilation, local NGO's face a lot of resistance to their campaigns against harmful practices and have experienced a number of significant setbacks particularly in their work to raise eradicate the practice of FGM.

One of the reasons for this may be that to raise awareness around the issue of FGM means to question an entire belief system and the values of the society that supports it. The reasons for FGM are complex and a rather sensitive approach towards the issues involved is essential. Nevertheless local NGOs have managed to generate dialogue and discussions on FGM and other traditional practices at all levels.

A Situational Analysis of Female Genital Mutilation in The Gambia was commissioned by the United Nations Agencies: WHO, UNFPA and UNICEF in August 1999. This Study revealed that 80% of Gambian women and girls are subjected to the practice of FGM. The study highlights the fact that Government prohibited the anti FGM advocates from using the public media to advocate against the practice of FGM and sees this as one of the main reasons for the setbacks encountered. The study further mentions that the government shows a clear commitment on the promotion of human development but confuses the public with conflicting messages in regards to FGM.

Given that young girls are subjected to the practice of FGM, it becomes an issue for the Government in fulfilling its obligations under the UNCRC, to promote and provide an enabling environment within which girl children are protected from the practice and its negative health outcomes.

The same applies in the case of early marriage – the Government should enact and enforce legislation, which prevents marriage below a certain age.

Articles 18, 26, and 27: Government has given fair reporting on these articles and we feel the contents are genuine. However, we want to add that legislation is in place for the re-enforcement of article 26 but monitoring is inadequate.

6 EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Articles 28, 29: Education and Aims of education

In the Gambia Geographic access to education facilities is considered adequate. Most parts of the country have primary, junior and senior schools. Parents as a result experience relatively little difficulties in securing schools for their children compared to the past. However, quality of education is relatively inadequate compared to the past. The shift in education policy and practice in recent years did not happen along with the required institutional capacity for the systems, structures and facilities. The West Africa Senior School Leaving Certificate Examination (WASSCE), which replaced the General Certificate of Ordinary Level Examinations (GCE O'Level), is not widely recognised making it difficult for further training outside the Gambia.

Although free and compulsory basic education for all children is entrenched in the constitution, it seems far from being implemented. Government recognised the series of constraints associated with this noble goal, but made no reservations at the time of ratifying the convention. This implies that Government should make efforts to address the pertinent issues in the education sector by securing and allocating sufficient resources to the sector. NGOs are with view that the education policy is over ambitious and Government do not have the capacity to achieve the targets set.

Vocational skills' training is a potential opportunity for improving the living standards of youths and children. Although Government has made efforts to establish some vocational skills centres, graduates from such institutions complained about the quality of training provided as it does not help them much to improve their quality of life. Government's initial report concentrated mainly on the quantitative aspect, that is number of people trained, but did not mention much about qualitative aspect. The need to review the training offered with a view to fine-tuning it with demands of the beneficiaries and the labour market is evident. Vocational training should also be decentralised to the rural areas to increase access.

Article 31: Culture and Recreation

Culture and recreation is a fundamental aspect of child development and upbringing. There exist a number of recreational facilities that are accessible to children to play and relax. Majority if not all of these facilities are found in the urban areas leaving children in the rural areas disadvantaged with little or no access to such facilities.

7 SPECIAL PROTECTION MEASURES

Article 22: Refugee children

Refugees are accorded with security and social protection in the Gambia. They are registered and followed up by the UNHCR to ensure that they enjoy maximum protection. Several refugee camps have been built where refugees' children and/or their guardians are settled. However majority of these camps are located in isolated places rendering access to information and other necessities of life difficult. Legislation on refugee children or children affected by war and other calamities is not provided in the constitution.

Article 30: Right to religion and cultural norms

In the Gambia, there is a complete freedom of choice and practice of religion and culture. Every citizen and resident of the Gambia has the right of belonging to any religious sect. The Gambia enjoys a cordial religious and cultural co-existence with little or no major religious and cultural conflicts.

Article 32: Protection of children from economic exploitation

Economic exploitation is not a pronounced problem in the Gambia. Employment conditions are to some extent regulated and monitored by the labour office. There is however no legislative provision with regards to the minimum age for employment. It is not uncommon to see children being engaged as apprentices, street vendors and household domestic workers as early as ten years. Most of such children hail from poor families who use them as coping strategies for poverty at the detriment of their education. In the process, some of them particularly girls become exposed to dangers of being prostituted and also adopting bad ways of life such as stealing.

Article 34,35: Protection against sexual exploitation and abduction and sale of children

It is unconstitutional to practice prostitution, pornography and child abduction and sale in the Gambia. There are however evidences of prostitution done in camera by adults which can have a negative influence on children. Government usually controls the act through occasional crackdown of culprits by security men. Foreigners are often deported and nationals punished.

Abduction and sale of children does not exist in the Gambia. By law, it is regarded as a criminal act and provisions have been made in the constitution to punish future culprits.

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Recommendations

- Government must ensure that the content of the CRC is publicised in both English and the local languages so that the information contained in it will be well understood by the

Gambian populace. This is a major pre-requisite if the objectives of the CRC are to be met. The utilisation of the Radio and Television services and other media must be maximised for this purpose. It is also important for NGOs to mainstream this into their sensitisation and awareness raising campaigns.

- Government must ensure that effective structures for the co-ordination of child related policies and systems of monitoring the implementation of CRC are put in place. The establishment of the envisaged National Commission on the Rights of the Child should be given priority. It is recommended that NGOs, Civil society and youth organisations have representation on the Commission.
- The various laws, acts, codes and constitution must be reviewed and harmonised in line with the provision of the CRC. NGOs should be engage in on-going dialogue, advocacy and lobbying with Government to ensure that the harmonisation of the laws, codes, acts and constitution with the provision of the CRC take place or new legislation which is more clearly focused towards child protection be instituted.
- The CRC should be implemented in a holistic approach through close collaboration between NGOs and Government. This is envisaged to be a good opportunity for Government to implement the CRC since NGOs have already established a strong presence at community level with high social capital.

It is important for NGOs to mainstream the process of implementing, monitoring and reporting of the CRC in their programmes and activities. Already some TANGO members are specialised in rights based issues including child rights. These include Action Aid The Gambia, Christian Children Fund, Islamic Relief Association, Centre for Children's Right and International Society for Human Rights. Therefore NGOs's participation into the implementation, monitoring and reporting on the CRC will not be a difficult process particularly with support from Government and UNICEF. It is therefore recommended that UNICEF provide adequate logistical and financial support to strengthen TANGO's advocacy, monitoring and reporting role on the CRC.

- Government and NGOs to enhance effective advocacy for the implementation, monitoring and reporting on the CRC must undertake a research on the conditions and position of children in the Gambia. The research will help understand issues affecting children and mechanisms to address them.
- All public institutions and facilities especially structures at the State Department for Education, the laws courts, office of the president must be standardised to facilitate access by the disabled.
- Government should strengthen of the human, physical and financial resource capacity of the Department of Social Welfare for effective execution of its mandate. Present budgetary allocation to this department is grossly inadequate and should be reviewed and revised upwards.