

**A Consultancy Study on Cultural Rights in  
The Gambia**

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**Consultant: National Centre for Arts  
and Culture, The Gambia. Lead  
Researcher: Hassoum Ceesay)**

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## **Contents**

### **Chapter 1. Introduction**

1.1	Preamble	4
1.2	Objectives of the study	6
1.3	Research Questions	6
1.4	Methodology	7
1.5	Definition of Cultural Rights	8

### **Chapter 2. Cultural Rights in The Gambia**

2.1	Historical Background	9
2.2	Colonial Basis for Discrimination	11
2.3	1970 to date	13
2.4	Gambian Legal Instruments Pertaining to Cultural Rights	13
2.5	The 1997 Constitution	14
2.6	The National Centre for Arts and Culture Act, 2004	15
2.7	The Copyright Act, 2004	16
2.8	The Gambia Women's Act, 2010	17
2.9	The Children's Act, 2002	17
2.10	The University of The Gambia Act, 1999	18
2.11	Cultural Policy, 1989	18
2.12	National Policy for the Advancement of Women	19
2.13	Rights of Minorities	19
2.14	Harmful Traditional Practices	21
2.15	Festivals and Cultural Rights	21

### **Chapter 3. Key International Legal Instruments on Cultural Rights**

3.1	Universal Declaration of Human Rights	23
3.2	Berne Convention	24
3.3	Other Relevant International Principles and Declarations	24
3.4	Convention for the Safeguarding of the Intangible Cultural Heritage	25
3.5	Regional Legal Instruments	26
3.7	CEDAW	28
3.8	Education for All (EFA)	29
3.9	UN Convention on the Rights of the Child	30
3.10	Universal Declaration of Human Rights	30

## **Chapter 4. Gambian Institutions Concerned with Cultural Rights**

4.1 National Centre for Arts and Culture	32
4.2 Gambia National Museum	33
4.3 Private Museums	32
4.4 Gambia Association of Theatre	33
4.5 Gambia Supreme Islamic Council	34
4.6 Gambia Christian Council	35
4.7 GAMCOTRAP	35
4.8 Gambia Press Union	36
4.9 Gambia Writers Association	39
4.10 Gambia Music Union	40
4.11 Roots International Homecoming Festival	40
4.12 Kanilai Festival	40
4.13 Other Festivals	41
4.14 Sites and Monuments	42
4.15 Traditional Medicine	42

## **Chapter 5. Conclusions**

5.1 Analysis and Interpretation	44
5.2 What is Culture?	45
5.3 Culture and National Development	45
5.4 Defining Cultural Rights	47
5.5 Festivals and Cultural Rights	48
5.6 Women's Rights	48
5.7 Child Rights	48
5.8 Copyright	49
5.9 Media Rights	49
5.10 Harmful Traditional Practices (FGM)	49
5.11 Women and Cultural Rights	50
5.12 Role of Government in Promoting Cultural Rights	50
5.13 Obstacles to the Exercise of Cultural Rights	51
5.14 Children and Cultural Rights	51
5.15 Education and Cultural Rights	52
5.16 Strengthening Cultural Rights in The Gambia	52
5.17 Mass Media and Cultural Rights	53

## **Chapter 6. Recommendations 54**

### **Reference:**

### **Abbreviations and Acronyms used**

ICESCR = International Covenant on Economic and Cultural Rights

ACPHR = African Charter on Human and Peoples' Rights

ACDHRS = African Centre for Democracy and Human Rights Studies

NCAC = National Centre for Arts and Culture (The Gambia)

PRWR = Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

CEDAW = International Convention on the Elimination of all forms of Discrimination Against Women

ICCPR = International Covenant on Civil and Political Rights

## **Chapter 1. Introduction**

### **1.1. Preamble**

The ICESCR's<sup>1</sup> Article 15 refers to cultural rights as the 'right of everyone: (a) to take part in cultural life, (b) to enjoy the benefits of scientific progress and its application, and (c) to enjoy the protection of scientific, literary or artistic works'. Article 13 of the ICESCR which provides for the rights to education is closely related to the right to participate in one's culture as cultural life is one of the elements that ensure the total development of the human being. The article reads thus: 'the right to education which shall be directed to the full development of the human personality and the sense of his dignity...'

However, if cultural rights were to be understood in this sense of right to culture, then its meaning would not have merited much debate. However, some international documents and legal instruments show a variety of meanings of the term. For example, Article 14 of the Algiers Declaration on the Rights of People adopted in 1976 recognizes cultural rights as 'the right of a people to its own artistic, historical and cultural wealth', which is also reflected in the African Charter where Article 22 reads "the right to the equal enjoyment of the common heritage of mankind'. It is obvious from the above-mentioned texts that cultural rights are a broad term. However, the ideas of heritage, education, culture recur as the central concerns of the concept.

The right to culture in human rights law is essentially about the celebration and protection of humankind's creativity and traditions. The right of an individual to enjoy culture and to advance culture without interference from the state is a human right. Under international human rights law, governments also have an obligation to promote and conserve cultural activities and artifacts, particularly those of universal value. Culture is overwhelmingly applauded as positive in the vast majority of human rights instruments. However, some statutes recognize that certain kinds of cultural and social practices may have a negative impact on an individual's health and well-being.

### **1.2. Objectives of the study:**

- To look at the level at which our national laws and policies have addressed the issue of cultural rights in terms of minority rights, child, women and youth rights, language, heritage and Intellectual Property rights in relation to

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<sup>1</sup> UN Treaty signed in 1966

International accords and treaties such as the African Charter on Human and Peoples' Rights (ACPHR)<sup>2</sup>;

- To assess all national legal provisions on the promotion and limitation of cultural rights in The Gambia; in other words to interrogate the state and nature of cultural rights in the country;
- To suggest strategies of maximizing the exercise of cultural rights in The Gambia and to make their application more inclusive and;
- To assess the right of minorities to take part in cultural life, and to conserve and promote their own culture

### **1.3. Research Questions**

The research questions we seek answers to are:

1. How do Gambians understand the concept of cultural rights.?
2. What is the state of cultural rights in The Gambia?
3. What are the national policies and laws that affect the exercise of cultural rights in The Gambia?
4. What is the way forward to maximize the exercise of cultural rights?
5. Theoretical framework.

This study shall be based on the parameters of the exercise of cultural rights as spelt out in General Comment 21 of the ICESCR. It outlines the basic components of participation, access and contribution to cultural rights' and also the five elements or conditions necessary for the maximum realization of a full participation in cultural rights: availability, accessibility, acceptability, adaptability and appropriateness.

### **1.4. Methodology**

This research has three methodological phases:

- Secondary sources: This is mainly library research which has taken the researchers to The Gambia National Archives, Banjul; Gambia National Library; African Centre for Democracy and Human Rights Studies (ACDHRS)<sup>3</sup> in Kerr Sering, The Gambia; Oral and Documentation Centre of the National Centre Arts Culture (NCAC) in Fajara and the Gambia National Museum. Material from the library of the Gambia National Commission for UNESCO was also consulted. The secondary sources consulted were those directly linked to the question of cultural rights, human rights, women's rights and culture. These documents helped the team to properly keep abreast with the published data on the subject under study.

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<sup>2</sup> Also known as the Banjul Charter signed in 1983 in the Gambian capital

<sup>3</sup> Established in 1990 in The Gambia

- **Field work:** This consists of three trips up country between 23/10/2010 to 4/12/10 which has taken the team to all the seven administrative regions of The Gambia. In the field, formal and unstructured interviews, mostly tape-recorded were used to elicit data on various aspects of cultural rights especially religious rights. The field work has also enabled the consultant to garner information on the perception of major stakeholders on cultural rights and the obstacles impinging its fullest exercise. Interviews were done at sites such as Medina Serin Mass in Niumi; Juffureh and Albreda in Niumi; Jajanbureh in Central River Region; Basse in Upper River Region; Soma in Lower River Region; Brikama in Western Region and in the Kanifing Municipality and in Banjul. The study was also conducted with the assistance of a research team from the N C A C consisting of a lead researcher (Hassoum Ceesay), editorial assistant (Baba Ceesay) and three research assistants (Lamin Nayangado, Lamin Yarbo and Malick Nyan). Working with staff of the NCAC was important as the institution is the statutory agency that is ultimately responsible culture and the arts.
- **Analysis of data:** The concluding chapter gives the consultant's observation on cultural rights in The Gambia based on the data collected. The transcribed field notes assisted in this undertaking.
- **Limitations of the study:** Given the fact that the scope of the study is countrywide, the time given for the task was too short, thus the team had to put in long working hours to beat the deadline. In fact, the commissioning authority had to extend the first deadline to enable the consultant complete the first draft.

### **1.5. Definition of Cultural Rights**

The Collins English Dictionary defines culture as 'the total range of activities and ideas of a group of people with shared traditions which are transmitted and reinforced by members of a group' or 'the artistic and social pursuits, expression, and tastes valued by a society or class, as in the arts, manners, dress etc... While both definitions give inkling to the broad parameters, they have not adequately addressed the peculiarities of culture as in its dynamism and multifaceted nature. Multifaceted in that some cultural practices add value to our lives and social status, while other cultural practices are negative and at odds with basic human rights recognized universally. This study shall endeavor to fill in this gap by looking at debilitating cultural practices such as female circumcision and land ownership, and how they impair women's ability to fulfill their cultural rights.

## Chapter 2. Cultural Rights in The Gambia: an overview

### 2.1. Historical Background

There are five main ethnic groups in The Gambia: Wolof, Mandinka, Fula, Jola, Serehule and several other minority groups.

- **Mandinka:** The Mandinkas, descended from the Mali Empire founded in the 13<sup>th</sup> century, compose the largest group in The Gambia. Their language is the most widely spoken throughout the country, and they are largely Muslim.
- **Fula:** The Fulas are the second largest ethnic group in The Gambia, and are also found in many other West African countries. They are also largely Muslim, and they range from being cattle herders in rural areas to retail business owners in the urban areas.
- **Wolof:** The Wolof people are the third largest ethnic group in The Gambia, and are the main ethnic group of surrounding Senegal. Wolof is spoken largely in the urban areas of The Gambia and is a common second language for those of all ethnic groups due to The Gambia's ties culturally and socially to Senegal.
- **Jola:** The Jolas come originally from the Casamance and Guinea-Bissau regions of West Africa, and reside mostly east of the Kombo area in The Gambia. In the urban areas, most Jolas speak many of the other languages of The Gambia, lending to its declining prominence in The Gambia. President Jammeh is a Jola.
- **Serahule:** The Serahule, descended from the Ghana Empire, are a prominent ethnic group in Mali and in eastern Gambia, especially in and around Basse. Most other ethnic groups in The Gambia do not speak Serahula, but the Serahule often speak multiple other languages. Like the other ethnic groups, they are largely Muslim, and are known to be businesspeople.
- **Serer:** The Serer have mostly settled on the north bank and in Serrekunda, and also have a significant population in Senegal. Most Serer people also speak Wolof, which is much more widely spoken in the areas in which they live than the Serer language.
- **Manjago:** The Manjago people are largely Christian and live predominantly on the south bank near Mandinka or Jola villages, or in the Kombo region. Most Manjangos speak multiple other languages of The Gambia.
- **Bambara:** The Bambara people originate from Mali and thus reside mostly in eastern Gambia. Their language is closely related to Mandinka, and most Bambaras speak Mandinka as well as their own Bambara language.
- **Aku:** The Akus are descended from former slaves in England and the Americas who resettled in West Africa in the mid-1800s. Their language is

similar to the Krio language of Sierra Leone due to their similar roots. Like the Manjago, Akus are predominantly Christian.

The minorities include Mansuanka, Koniagi, Karoninka, Manjago, Balanta, Serere and Aku. All these groups live in harmony, share many commonalities in culture and language, and intermarry. However, for the purpose of this study, our focus shall be to assess the right of minorities to take part in cultural life, and to conserve and promote their own culture as spelt out in Article 27 of the International Covenant on Civil and Political Rights. Article 22 of the African Charter, which states: *'All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.'*

The Charter of Kurakang Fuga or the Mande Charter<sup>4</sup> formulated by Sundiata Keita, the King of Mali Empire in the 13<sup>th</sup> century laid the broad parameters of cultural and human rights such as the rights of women, the rights of war prisoners and cultural preservation.

Pre-colonial Gambian society provided a rich platform for the exercise of cultural rights through ceremonies, festivals, languages, royal processions and oral performances such as storytelling and proverbs. All forms of cultural practices, such as marriages, initiation ceremonies (Futampaf) and an innumerable others only enriched the cultural scene. In the book *Ceremonies of the Gambia* published in 2003, it is noted that cultural expression was a daily routine of all the ethnic groups in drumming, dancing, singing and in sports such as wrestling, fishing and hunting. Nearly all ethnic groups in The Gambia have masking traditions. Masks such as the Wolof Zimba, the Mandinka Kankurang, Aku Hunting, Jola Kumpo and the Fanal evoke spirituality and esoteric freedom that even the colonial rulers could not erase, which is why they remain as strong symbols of cultural resilience and expression.

Harvest festivals, rain ceremonies, naming ceremonies among the various ethnic groups of The Gambia allow the full participation of all in the rites and rituals, thus making them veritable vehicles for cultural expression and participation. This study shall highlight the rich palette of cultures that have survived colonial repression and explore how they could be canalize to become symbols of cultural rights and how they can be adapted to help in the exercise of cultural rights.

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<sup>4</sup> See the 'Excerpts of the Charter of Kuraga Fuga' unpublished, Bamako, Mali July 27-30 2004.

## 2.2. Colonial basis for discrimination

One of the first preoccupations of the colonial authorities was to enact legislation aimed at regulating affairs in the Colony where English laws operated. Many of these colonial laws (ordinances) were modeled on existing laws in England with only minor modifications. In addition, these laws in general applied only to residents of the Colony; the protectorate, where the majority of women lived, was run according to native laws exercised by chiefs.

A plethora of ordinances on women's issues was enacted during the colonial period including the Marriage Ordinance (1862), the Married Women's Property Bill (1883), and the Muhammedan Law Recognition Ordinance (1905) and the Civil and Christian Marriage Ordinance (1938).

The Marriage Ordinance (1862) provided that in the case of a person who was under 21 who wished to contract a marriage other than a widow or widower, the consent of the parents or guardians or judge of the Supreme Court was necessary. This law was discriminatory in that it did not give women the right to choose a spouse of their choice as now spelt out in Article 6 of the Protocol of the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (PRWA)<sup>5</sup>: *'Women and men shall enjoy equal rights in marriage'*.

However, the legislation did not have much significance on the status of married women. The law, which affected them most, was the Married Women's Property Bill (1883) that gave widows property rights. This was a good law that sought to empower women economically and thereby enable them fully exercise all their rights including cultural rights.

In 1905, the colonial authorities introduced the Muhammedan Law Recognition Ordinance that gave legitimacy to children born in Muslim marriages for the first time. However, Muslims saw this legislation as grossly inadequate as it did not consider Muslim marriages themselves as valid or legal. As this was discriminatory, it did not favour the exercise of cultural rights by Muslim women. Pressure from the Muslim community in Banjul led by Sheikh Omar Faye and Ousman Jeng resulted in the enactment of the Ordinance for Muslim Marriages and Divorces (1938) which made such marriages legal and valid and required that they should be registered. This was another positive legislation which in today's terms would have conformed to the PRWA and the Gambia Women's Act, 2010

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<sup>5</sup> This came into effect in 2005

which required marriages to be registered so as to give social protection and recognition to women.

In 1871, the Bathurst Observer reported on the trial of Marie Susan, a Banjul woman who went to court to challenge her wrongful imprisonment for contempt of court for insisting on testifying in court in Wolof during hearings.. Here was a typical case of colonial disregard for the right of their subjects to use their mother tongue, which demeans their cultural right.

In the post-independence era, several new legislations discriminated against women, especially in marriage. One such example is the Marriage Bill, which gave the Supreme Court jurisdiction to dissolve a monogamous marriage where one spouse became converted to a religion recognizing polygamy and the other spouse has not converted. The Bill allowed a Christian, who becomes a Muslim, to marry again and have children, and could ask the Supreme Court to relieve him of his first wife by Christian marriage.

In addition, The Gambia has assented to numerous international binding agreements that enjoin it to respect and promote cultural rights including the African Human Rights Charter or Banjul Charter, which was in fact signed and adopted in The Gambia in the 1980s. In addition, The Gambia has domesticated many of the treaties and agreements on human rights in the form of laws or Acts which are nationally binding such as the Women Act 2010. However, although these laws provide legal framework for the exercise of cultural rights, they do not give the state of cultural rights observance in The Gambia and the ways to maximize its exercise.

### **2.3. 1970 to date**

In the colonial period, the British upheld certain cultural institutions in order to cement their grip on the populace, and suppressed others for the same purpose. The local Kings were removed and in their places were appointed chiefs, a wholly new concept for the people, but the duties of these chiefs remained cultural and traditional in nature including presiding over customary law. After independence in 1965 several international treaties and agreements on various aspects on human and women's rights were accepted by The Gambia which led to the passing of new laws to domesticate these global treaties.

### **2.4. Gambian legal instruments pertaining to Cultural Rights**

In many ways, the national laws regulating cultural rights vary. They range from the 1997 Constitution, the various sectoral Acts, national policies, and bye-laws

enacted in different times under differing circumstances. However, before we begin to examine the way cultural rights are treated in various Gambian laws and regulations, we should go down memory lane to examine the historical legal antecedents linked to cultural rights. For All the three constitutions of The Gambia since Independence in 1965 have in various ways provided for basic cultural rights provisions and benchmarks such as the right to education, protection of cultural identities such as language and heritage and the safeguarding of the freedom of speech. Moreover, these cardinal laws provided for the protection of all human rights such as the right to assembly, association, family, religion and faith and property rights.

The 1965 Independence Constitution and the 1970 Republican constitution have identified The Gambia as ‘a secular state where all religions operate side by side’, and had also provided for ‘the freedom of speech within the parameters of the laws of the land’. Indeed, as all our Constitutions enacted since Independence were heavily informed and influenced by the UN Universal Declaration of Human Rights of 1948, fundamental human rights, which facilitate and strengthen cultural rights were entrenched. However, the 1997 constitution, which emerged following a nationwide consultative process, is particularly strong as regards to its provisions of cultural rights.

### **2.5. 1997 Constitution**

The preamble of the 1997 Constitution provides for the right to practice religion, a key cultural rights provision, by declaring The Gambia as a secular state. The rest of the document provides a wide range of freedoms and rights to Gambians including media freedom, right to education, rights of women and children and rights to enjoy cultural heritage. Chapter XX Section 218, *enjoins ‘the State and all peoples of The Gambia to protect, preserve and foster national languages, historic sites, cultural, artistic heritages of The Gambia’*. This provision directly and unambiguously fulfils General Comment 21 section 50 (b) of the Committee on Economic, Social and Cultural Rights. Section 30 of the 1997 Constitution assures the right to education, and adds further that ‘*basic education shall be free, compulsory and available to all*’; ‘*secondary education including technical and vocational education shall be made generally available and accessible to all*’; and ‘*higher educational shall be made equally available to all*’. Section 30 (d) states that ‘*functional education shall be encouraged*’.

These provisions on education are critical as literacy increases the abilities of citizens to practice their cultural rights fully. Furthermore, Chapter XIX Section 207 of the Constitution guarantees press and media freedom in The Gambia

subject to the laws of the country in the interest of public interest and morality. In the past decade there has been a huge increase in private broadcast media such as FM stations. This has greatly increased exposure given to local culture and music. The advent of a national TV service in 1995 is serving a similar purpose; the role of the media in the promotion of cultural rights is discussed below.

## **2.6. NCAC Act, 2004**

The National Centre for Arts and Culture (NCAC) Act concerns itself with the fundamental tasks of protecting cultural heritage as a cultural right. The Act mandates the NCAC in 15 key points about arts, culture and heritage matters, including *'to advise the Minister of Culture on matters relating to arts and culture, and in particular relating to national languages, the creative and performing arts; monuments and relics, research and documentation, science and indigenous technology and sports and recreation'*<sup>6</sup>. The Act also enjoins the NCAC to promote and develop Gambian arts and culture; implement, monitor, co-ordinate and evaluate artistic and cultural programmes; promote artistic and cultural cooperation at regional and international levels; equip, maintain and manage the National Museums etc.

The Centre is also mandated under the Act to establish an Endowment Fund for the Arts and Culture through levies, state subventions, gifts, and donations to help develop and promote arts in The Gambia. The Act therefore has given the Centre wide powers to enable it protect, promote and preserve Gambian culture and heritage and this conforms to Article 15, 1 (a) of the ICESCR. One cannot talk about the exercise of cultural rights without discussing access to cultural goods. There is a tendency that decisions making on cultural issues are centered within Banjul and the Kombos which is why the NCAC Act has provided for the Regional Cultural Committees, and Regional Cultural Officers tasked with promoting culture at the grass roots level. The Regional Committees are very useful when it comes to activities such as festivals when they are called upon to mobilize cultural and performance groups. However, the Regional Cultural Officers are not yet in place due to budgetary constraints in the NCAC. When they are appointed, working together with the Committees, many improvements shall be registered in the exercise of cultural rights in the Regions than now. It is obvious from the above that, the NCAC is established to maximize cultural rights among the people, however, due to inadequate finances, and shortage of staff the Centre is not always able to carry out its full mandate thus limiting its activities and impact.

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<sup>6</sup> See NCAC Act, 2003, part 3 section 11,

## **2.7. Copyright Act, 2004**

The Gambia Copyright Act, 2004 addresses intellectual property as a vehicle for cultural rights. It repealed the 1911 Copyright Act enacted by the British which concerned itself only with literary rights. This made the 1911 Act almost applicable to the vast majority of Gambians who were not literate and therefore could not aspire for any protection under this Act. Indeed, the 1911 Copyright Act was tailored made to protect the official and semi-official works of the serving British colonial officials in the country. However, it continued to subsist even after independence until 2004, when it was repealed and replaced by a modern and more responsive Act.

The Gambia Copyright Act, 2004, assures full moral and economic rights to works which fall ‘*under literary, artistic, musical, sound recordings, audio-visual work; choreographic work, derivative and programme carrying signals*’<sup>7</sup>. The Act also protects folklore against reproduction or public performance for commercial purposes. It gives economic rights to authors and creators and protects translated works. The Act therefore has gone a long way in the promotion of cultural rights. The Copyright Act therefore fully conforms to

General Comment 21 of the ICESCR obliges States to protect cultural goods including folklore and traditional practices. However, due to lack of work force and financing, a royalties collection mechanism as spelt out in the Act is yet to be fully implemented; although much progress is being made in this regard. However, at the time of writing sensitization of stakeholders and the preliminary steps towards the registration of works was in progress.

## **2.8. The Gambia Women’s Act 2010**

Women like all other persons, have the right to participate in cultural life. Women have generally become the repository of cultural norms and values in Gambian society. They are deeply involved in numerous cultural activities ranging from crafts, music to traditional theatre and initiation rites. There are hardly cultural manifestations which exclude the participation of women; for example, drumming is accompanied by women singing and dancing. This is why their full participation in cultural activities should be provided for in our laws and regulations.

The new Women’s Act, 2010 is a progressive law that assures a whole range of cultural rights to women. It is a comprehensive piece of legislation that embodies the law to enforce women’s human rights and provide protection against

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<sup>7</sup> See Gambia Copyright Act, 2004 section 4 (1)

discrimination; it domesticates the provisions of International Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the PRWA. The Act addresses positively issues ranging from women's human rights, including right to freedom of expression, right to education and training; right to own and manage property. Importantly, section 50 of the Act enjoins '*every woman has the right to live in a positive cultural context and participate at all levels in the determination of cultural policies*' (p.22). The Act also gives special protection of women with disabilities, women in distress, and elderly women (p.24). The Act helps The Gambia to fulfill Article 15, paragraph (a) of the ICESCR General Comment 21.

### **2.9. Children's Act. 2002**

In 2001, the Child Protection Alliance, CPA, was formed as an inter agency institution whose focus is solely on promotion and protection of children (CPA Newsletter, 2007, p.9). The CPA lobbies, advocates and collaborates with government and civil society to protect children and guarantee their rights'. What's more, it helps to nurture the artistic and cultural talents of children in drama, public speaking, etc., to enable them fully exercise cultural rights. The CPA has successfully worked with government to enact a Children's Act, and a campaign against corporal punishment that is seen as a major human rights violation. Furthermore, section 29 (1,2) of the Act protects children '*from all forms of exploitation*' and thus allows them the opportunity to play a role in the transmission and regeneration of cultural values as enshrined in General Comment 21(e) of the ICESCR.

### **2.10. University of The Gambia Act, 1999**

In 1999, The University of The Gambia was established upon the solid foundation of a University Extension Programme ran by Saint Mary's University in Canada and The Gambia Government. The establishment of the University is a milestone in the annals of educational development in The Gambia. The enactment, which was a bold step to fulfill a long-standing desire of the people of the Gambia and to respond to several years of advocacy both within and outside the country for a university, ended years of indecision on the university question.

Apart from its mandate of bringing tertiary education to The Gambia, the University has become a catalyst for the promotion of cultural rights by increasing the literacy rate directly through its course and indirectly through the training of teachers. The recent introduction of Performing and Visual Arts as subjects in its syllabus, gives the University a more direct role in the promotion of the arts and culture and by extension, cultural rights.

### **2.11. Cultural Policy, 1989**

The Gambia Cultural Policy Document (1988) seeks ‘*to improve cultural infrastructure, mainstream cultural education in Gambian schools, and increase cultural awareness through the use of the media*’. It also has as priority the use of new technology to broaden the reaches of Gambian cultural performers.. The document therefore seeks to address many of the obligations of General Comment 21 on the ICESCR. However, it is obvious that this Policy is getting outdated due to the fact that it has not catered for many emerging cultural issues such as intellectual property rights.

### **2.12. National Policy for the Advancement of Women<sup>8</sup>**

The recognition of the important role of women in the development process was in 1980, when the first policy statement to this effect was made. This was however not complemented by the articulation of an overall national policy for women. This lack of articulation tended to weaken the way that women's issues are dealt with both at national and community level to the extent that there has not been the necessary policy orientation to guide the co-ordination of the different strategies geared towards promoting the advancement of women.

This policy initiative is thus an attempt to bridge the gaps in addressing the concerns of women, and offers a framework within which Gambian women can move out of inequality and deprivation, towards greater participation in national development processes, including women’s full participation in cultural life. Key provisions of this policy which have a bearing on Women’s cultural rights include:

*‘Provide a Scholarship Scheme for girls; Increase literacy programmes for women; Improve girls and women's access to functional literacy, vocational education and training; Increase opportunities for women to attend literacy classes and link the non- formal education system to income generating activities’.*

### **2.13. Rights of minorities**

Equality and nondiscrimination are fundamental human rights guarantees. Ethnic, religious and other minorities often suffer from discrimination in a number of dimensions of their lives, and their culture is rarely accorded the respect and protection that is extended to the majority culture in a country. Article 27 of the

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<sup>8</sup> It came into effect in 2005

International Covenant on Civil and Political Rights (ICCPR)<sup>9</sup> protects the rights of minorities, providing that: *'In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language'*.

The 1993 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (art. 1) states:

1. *'States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.'*

2. *'States shall adopt appropriate legislative and other measures to achieve those ends'*.

Article 2 goes on to detail the areas covered by this guarantee, including, notably, the right of minority groups to participate effectively in decisions that affect them.

To paraphrase the 1982 UN Declaration on Race and Racial Prejudice, which makes specific reference to the culture of minorities, culture, a product of all human beings and a common heritage of humankind, and education, in its broadest sense, offer men and women increasingly effective means of adaptation. This enables them not only to affirm that they are born equal in dignity and rights, but also to recognize that they should respect the right of all groups to their own cultural identity and the development of their distinctive cultural life within the national and international contexts. It is to be understood that it rests with each group to decide, in complete freedom on the maintenance, and, if appropriate, the adaptation or enrichment of the values which it regards as essential to its identity.

In The Gambia, minority rights does not usually rear its head because there are no marginalized indigenous groups as in the sense of the Pigmy or Bassarwa; instead there are minority ethnic groups and language groupings. These include the Bambara, Mansuanka, Manjako, Konyagi, Karoninka, Balanta, Basari who form individually less than one per cent of the population. Yet, these groups are minority only in their feeble numerical strength but not in the sense of deprivation or marginalization to prevent them from exercising cultural rights. For example, as is discussed in the section dealing with local FM stations

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<sup>9</sup> A UN treaty signed in 1976

At the same time, the concept of self-determination, particularly internal (within a country) is so complex and controversial that cultural rights issues are considered to be related to self-determination and get caught up in this complexity and controversy. This issue has been addressed profoundly in the discussions and debates around the rights of indigenous peoples.

#### **2.14. Harmful Traditional Practices**

The right to be protected from harmful traditional practices is a cultural right. Practices like FGM, scarification, tattooing hamper women's health and therefore diminish their ability to exercise cultural rights. The PRWA in article 5: '*State parties shall prohibit and condemn all forms of harmful practices which negatively affect human rights of women*' through 'public awareness and prohibition through legislative measures'. The African Charter on the Rights and Welfare of the Child recognizes that some cultural practices are harmful but does not name them, but would include FGM. Several Gambian laws such as the Women Act, 2010 prohibit harmful traditional practices, but this study shall go a step further to assess the level of such practices such as female genital mutilation (FGM) in our society, and their impact on the exercise of cultural rights in The Gambia.

#### **2.15. Festivals and Cultural Rights**

One of the most potent tools for practice of cultural rights is festivals. Festivals of culture and art allow participants to bury their differences and celebrate the joys of living. Festivals allow people, especially minority groups, to highlight their heritage, appreciate other peoples' heritage and thereby forge unity and understanding. In The Gambia, festivals have always been a way of life in traditional society. There are festivals associated with Gambian traditions in the form of harvest, rain, and livestock festivals. .

The first national arts festival was held in 1973, but after a few editions, it folded up due to financial constraints. In 1996, the Roots Home coming Festival was inaugurated. The Festival aims to bring together Gambians and Africans in the Diaspora in a cultural and historical manifestation. The idea of the Festival is centered on Roots, a book by Alex Haley, in which he attempts to trace his roots back to the Gambian village of Juffureh, (Roots, Alex Haley, 1976, p.3). Since 1996, the biennial event has attracted hundreds of Africans in the Diaspora who come to appreciate various aspects of African heritage. The Roots Festival is a veritable tool in building understanding between Gambians and Africans in the Diaspora.

In 2001, the Gambian President started the Kanilai International Festival to foster sub regional cooperation through culture. The event has continued to grow and is now a veritable regional and international cultural revival and manifestation event where all peoples are given the chance to display their cultural expressions. This study shall highlight these festivals in detail in order to show how they have become veritable tools in the exercise of cultural rights through participation, accessibility and availability.

### **Chapter 3. Key International Legal Instruments on Cultural Rights**

A good starting point in the quest for the extend of cultural rights in The Gambia should be to have a close look at key international Treaties and Conventions adhered to by The Gambia, which are critically important in analyzing cultural rights. What this would reveal is both efforts at the international level that The Gambia has gone to affirm cultural rights in all its broad forms.

There are key international legislations adhered to by The Gambia through adoption and ratification, and which have a direct bearing on the issue of cultural rights, especially as it affects intellectual property, women's and child right, safe guarding of heritage including language and customs, access to education, and so on. Among them are the Berne Convention for the protection of Literary and Artistic works, African Union's African Charter on Human and Peoples Rights, the UN Universal Declaration on Human Rights (UDHR), the African Charter (ACRWC), Maputo Protocol on the Rights of Women in Africa, World Heritage Convention of UNESCO, Convention on the protection of diversity of cultural expressions of UNESCO, the Convention on the safeguarding of Intangible Heritage, and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

The following legal provisions address culture in general terms; provisions relevant to specific groups are detailed below.

#### **3.1 Universal Declaration of Human Rights**

Although later provisions in international law reflect a broader understanding, the direct references to cultural rights in the 1948 Universal Declaration of Human Rights are rather narrow. Article 27 says:

- 1. Everyone has the right to participate freely in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.*
- 2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.*

### **3.2 Berne Convention**

The full title is the Berne Convention for the Protection of Literary and Artistic Works. It was first adopted in 1886 as an agreement to honour the rights of all authors who are nationals of countries that are party to the convention. The current version of the convention is the Paris Act of 1971. The World Intellectual Property Organization, (WIPO), administers the convention.

The member countries form a Union, and the Act provides protection for the work of authors who are nationals of one of the countries of the Union, or where the work is first published (or simultaneously published) in a country that is a member of the Union.

For the purposes of the Convention, persons who are not nationals, but which have their habitual residence in a country of the Union, will be regarded as a national of the country.

The terms of the Convention also provide an incentive for countries that are not part of the Union to protect work by nationals of countries of the Union. It states that '*where a country outside the Union does not provide adequate protection to authors, countries of the Union are entitled to not extend protection to nationals of that country, beyond that which is granted by the country.*' The Gambia signed the Berne in 1992, and has since domesticated this important Convention by enacting Copyright Act in 2004. The substance of this Act is discussed below.

### **3.3 Other relevant international principles or declarations**

- The Convention on the Prevention and Punishment of the Crime of Genocide (art. 2), which has been interpreted to forbid the deliberate destruction of a people's culture

- UNESCO Principles on International Cultural Co-operation (art.1):

1. *Each culture has a dignity and value which must be respected and preserved.*

2. *Every people have the right and the duty to develop its culture.*

3. *In their rich variety and diversity and in the reciprocal influences they exert on one another, all cultures form part of the common heritage belonging to all mankind.*

- The UN Declaration on the Right to Development (art. 1):

*The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.*

### **3.4 Convention for the Safeguarding of the Intangible Cultural Heritage, 2003**

*“Intangible cultural heritage” means ‘the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artifacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity. For the purposes of this Convention, which The Gambia is in the process of signing and ratifying, consideration will be given solely to such intangible cultural heritage as is compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development’<sup>10</sup>.*

The “intangible cultural heritage”, as defined in paragraph 1 of the Convention is manifested inter alia in the following domains:

(a) *Oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;*

(b) *performing arts;*

(c) *social practices, rituals and festive events;*

(d) *knowledge and practices concerning nature and the universe;*

(e) *traditional craftsmanship’.*

In The Gambia, this convention is being implemented partly through the mandate of the National Centre for Arts and Culture (NCAC) whose activities cover cultural and artistic activities and programmes (see below). In 2006, The Gambia and Senegal successfully had UNESCO inscribe the kankurang Mande Mask into its List of Intangible Treasures of the World. In so doing, this cultural mask has joined a list of prestigious other intangible heritage that are seen as being of

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<sup>10</sup> See ‘Basic Text’ of the 2003 Convention, UNESCO, 2011, P.5

universal value. In this regard, with UNESCO Funding a Kankurang museum and centre is being erected in Janjanbureh in the Central River Region to interpret and preserve the Kankurang tradition.

### **3.5. Regional Legal Instruments**

Article 17 of the African Charter on Human and Peoples Rights guarantees the right of individuals to take part in the cultural life of their community. It also provides that the promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 22 provides for the right to cultural development of peoples and the equal enjoyment of the common heritage of mankind.

Because culture affects all aspects of human life, cultural rights illustrate the indivisibility and interdependence of all rights in a more comprehensive fashion than do any other rights. Indeed, it is difficult-perhaps even impossible to examine cultural rights in isolation; cultural rights are often an inextricable part of other rights. At the same time, cultural rights are often in a state of tension or conflict with other human rights.

### **3.6. African Charter on Human and Peoples' Rights (ACPHR) Banjul Charter**

This treaty was adopted on June 27, 1981. It was moulded and forged by African leaders after five years of intense negotiations with the former Gambian President Alhaji Sir Dawda Jawara playing an important role in its final form and provisions. It was in recognition of The Gambia strong role in the formulation of the Charter that Banjul was chosen as the site of the African Commission, which oversees the implementation of the Charter. Article 22 of the African Charter is particularly important for cultural rights. In part 7 of the latter, the Charter enjoins on member States of the AU *'to preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society'*.

#### ***Article 22***

1. *'All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of humanity. 2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development'*.

## **Article 29**

*‘The individual shall also have the duty: 1. to preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need’; 2. (7). ‘to preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society; 8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity’.*

### **3.7. CEDAW**

The Convention on Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as a international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

The Convention, in article 1, defines discrimination against women as “...*any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social cultural, civil or any other field.*” In many ways CEDAW encapsulates the spirit of female empowerment in all spheres of activities including the right to partake in cultural expressions and manifestations. CEDAW also has become the benchmark against which domestic laws and regulations safeguarding the rights and responsibilities of women are weighed and measured. This has led to the domestication of CEDAW in local laws such as the new Women Act, 2010 of the Gambia and The Gambia Women Empowerment Policy.

By accepting the Convention, States commit themselves, to undertake a series of measures to end discrimination against women in all forms, including:

- *‘to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women:*
- *To establish tribunals and other public institution to ensure the effective protection of women against discrimination; and*

- *To ensure elimination of acts of discrimination against women by persons, organizations or enterprises’.*

The Convention provides the basis for realizing equality between women and men through ensuring women’s equal access, to and equal opportunities in, political and public life – including the right to vote and to stand for election – as well as education, health and employment. States parties agreed to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.

The Convention is the only human rights treaty which affirms the productively rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. It affirms women’s rights to acquire, change or retain their nationality and the nationality of their children. States parties also agreed to take appropriate measures against all forms of traffic in women and exploitation of women.

Countries that have ratified or acceded to the Convention are legally bound to put its provision into practice. They are also committed to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations.

### **3.8. Education for All (EFA)?**

Education for All (EFA) is an international initiative first launched in Jomtien, Thailand, in 1990 to bring the benefits of education to “every citizen in every society.” In order to realize this aim, a broad coalition of national governments, civil society groups, and development agencies such as the World Bank and UNESCO committed to achieving six specific education goals:

- Expand and improve comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children.
- Ensure that by 2015 all children, particularly girls, those in difficult circumstances, and those belonging to ethnic minorities, have access to and complete, free, and compulsory primary education of good quality.
- Ensure that the learning needs of all young people and adults are met through equitable access to appropriate learning and life-skills programs.
- Achieve a 50 % improvement in adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults.
- Eliminate gender disparities in primary and secondary education by 2005, and achieve gender equality in education by 2015, with a focus on ensuring girls’ full and equal access to and achievement in basic education of good quality.

EFA also seeks to improve all aspects of the quality of education and ensure the excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life.

EFA is in many ways the bedrock of ensuring that cultural rights are exercised by a wide spectrum of society as possible. Its focus on access and quality education, including cultural studies, makes EFA necessary tool in the promotion of cultural rights. In The Gambia, the EFA programme has assisted in bringing about parity between boys and girls in school enrolment at the basic level. Access to education is a key requirement in the exercise of cultural rights as it enhances the ability to take part in and enjoy cultural life.

### **3.9. United Nations Convention on the Rights of the Child (UNCRC)**

The United Nations Convention on the Rights of the Child (UNCRC) is a comprehensive, internationally binding agreement on the rights of children, adopted by the UN General Assembly in 1989. It incorporates children's **civil and political rights** such as equal treatment before the law; **social, economic and cultural rights** such as adequate standard of living); and

1. **Survival rights:** include the child's right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services
2. **Development rights:** include the right to education, play, leisure, cultural activities, and access to information, and freedom of thought, conscience, and religion.
3. **Protection rights:** ensure children are safeguarded against all forms of abuse, neglect, and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.
4. **Participation rights:** encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their abilities develop, children are to have increasing opportunities to participate in the activities of their society, in preparation for responsible adulthood.

A child is defined in the UNCRC as a person under the age of 18 years.

### **3.10. Universal Declaration of Human Rights**

This famous piece of legislation dates to 1948 with the formation of the United Nations, and The Gambia subscribed to the Declaration upon its accession of UN member status in November 1965. It is an encompassing document largely seen as the conscience of the world, and binding to all UN members states. It is Article 26 and 27 are particularly relevant to cultural rights as these provide for right to education and enjoyment of cultural life.

#### **Article 26**

1. *‘Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.*

2. *(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.*

3. *(3) Parents have a prior right to choose the kind of education that shall be given to their children’.*

#### **Article 27.**

*(1) ‘Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.*

*(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which he is the author’.*

## **Chapter 4. Gambian Institutions and activities concerned with Cultural Rights: Case studies**

In this Chapter, our focus turns to key institutions linked to the exercise of cultural rights ranging from religious, cultural, women's rights and media. They in one way or the other contribute to the strengthening of cultural rights by making culture available, accessible, acceptable, apt and adaptable by their mandates, missions or activities. On the other hand, where these institutions for reasons of inadequate financing, weak administrative structures or lack of support fail in their remit, the exercise of cultural rights could be impeded.

### **4.1. National Centre for Arts and Culture NCAC**

The National Centre for Arts and Culture (NCAC) is a semi-autonomous institution established by an Act of Parliament in December 1989 to promote and develop Gambian Culture. The 1989 Act is now superseded by the NCAC Act of December 2003. The eight member Board appointed by the Secretary of State for Tourism and Culture is the highest official decision making body on all matters relating to Arts and Culture in the country.

The functions of the Centre are:

- To advise the Secretary of State on matters of policy relating to Arts and Culture and in particular on matters relating to national languages, the creative and performing arts, monuments and relics, research and documentation, science and indigenous technology, and sports and recreation;
- Promote and develop Gambian arts and culture; implement, monitor, co-ordinate and evaluate artistic and cultural programmes in The Gambia.
- Promotes artistic and cultural co-operation at regional and international levels;
- Encourage, at the local level, the emergence of groups and institutions interested in the promotion of arts and culture.

Administratively, the NCAC has four directorates for Administration, Cultural Heritage and Research, Performing and Fine Arts and Copyright.

The NCAC falls under the Ministry of Tourism and Culture of The Gambia Government. The ministry co-ordinates all government activities related to tourism, culture and heritage.

### **4.2. The Gambia National Museum**

Established in 1985, the museum's primary goal is the collection and preservation of artifacts documenting the material culture of The Gambia as well as to educate both visitors to the country and residents who may not be familiar with Gambian

history. Its artifacts fairly represent the material heritage of all of The Gambia's ethnic groups. There are five museums under the stable of the National Museum, most of them in the provinces. The Gambia National Museum falls under the purview of the NCAC.

#### **4.3 Private and Community Museums**

The NCAC encourages the development of private museums. There is a private museum at Tanji in Kombo south and a community/family museum at the Sacred Crocodile Pool in Bakau, both of which display ethnographic and historic objects interpreting Gambian culture and history.

#### **4.4 The Gambia Association of Theatre**

Theatre and drama are growing by leaps and bounds in The Gambia. Recently, , this form of arts has become a popular form of cultural and artistic expression and it affords youth, women groups in particular, a strong forum for the exercise of cultural right and expression. The rise in the popularity of drama could be ascribed to the advent of a national TV service and the growth in FM stations which can expose these groups to the bigger audience.

The theatre and drama industry, together with the nascent film industry influenced by Nigerian Nollywood actors, have the potential of becoming important tools for cultural promotion, entertainment, employment and communication and education. To this we should add, the use of traditional communicators like the *kanyeleng* or barren women's club is gaining popularity. The Kanyeleng use cultural motifs and expressions to sensitize the public on pertinent issues like AIDS prevention, environmental degradation and so on.

Although, The Gambia Association of Theatre (GAMAT) was formed in 2009 drama groups have been in existence since the 1890s in Banjul. GAMAT however, seeks to develop and maintain a conducive environment for the creation, production and distribution of networks; to promote quality movies production and to build capacities of its members through training.

#### **4.5. Gambia Supreme Islamic Council**

The Gambia Supreme Islamic Council (GSIC) was established in 1992 and consists of around 500 Islamic Scholars who are all volunteers. There is also a Supervisory Board made up of Imams from various communities in Gambia as well as leaders of various institutions, business people, lecturers and opinion formers.

The Islamic Council now operates within a 3 storey, purpose built office complex that serves as a training centre, a conference hall, administrative block.

Of the 50 members of staffs, 11 are professional staffs with university degrees at the level of Secretariat and two support staff. Its aims are to facilitate The Gambia becomes a highly Islamic and morally developed Muslim State with highly educated people in Islam.

The SIC management structure consists of an Executive Committee and Regional Representatives. The GSIC maintains comradely links with its entire key Islamic organizations and members of this coalition. The SIC also enjoy good relations with other religions present in the country particularly, the Christians to whom they give mutual esteem and respect. The role of the Council in the promotion of religious tolerance and unity is gaining momentum as it gets full state backing in some of its activities such as the mainstreaming and rationalizing of Muslim prayer times, and the training of Imams and preachers.

#### **4.6. The Gambia Christian Council**

The Gambia Christian Council established in 1965, and the successor of The Gambia Christian Association formed in the 1920s, is a fellowship of churches and Christian organizations. It has an established organization that teaches the Christian way of life and exercises discipline; are prepared to encourage their members to participate in ecumenical activities. It comprises the Anglican, Methodists and Catholics churches, and is affiliated to the World Christian Council based in Rome. Its associate members include Baptist Union, Young Men's Christian Association, (YMCA); Young Women's Christian Association, (YWCA), Youth With A Mission. It works towards good neighborliness for peace I society, and understanding the faith of others.

#### **4.7. GAMCOTRAP**

The Gambia Committee on Traditional Practices Affecting the Health of Women and Children, (GAMCOTRAP) was created at the International Seminar on Traditional Practices Affecting the Health of Women and Children organized by the World Health Organization in Dakar, Senegal from 6th to 10th February 1984 as an apolitical, non-governmental, non-profit making Organization.

Its objectives include:

*To carry out research into traditional practices that affect the sexual and reproductive health of women and girl children in The Gambia; To identify and promote traditional practices that improves the status of girl-children and women; To create awareness on the effects of harmful traditional practices on the*

*health of girl-children and women, in particular FGM, nutritional taboos, child/early marriages and wife inheritance’.*

Other objectives are:

- *‘To promote and encourage the education of girls at all levels;*
- *To sensitize and lobby, decision and policy makers, about socio-cultural practices that are harmful to the health of girl-children and women.;*
- *To promote and protect the human rights of girl-children and women; To create awareness on international and national instruments that address discrimination and violence against girl-children and women.;*
- *To influence policies in promoting and protecting women and children’s right; To promote the political participation and representation of women in elective decision making positions’.*

In the recent years, the association has succeeded in encouraging many female circumcisers to drop the knife and abhor female genital cutting, thereby slowly helping to remove a major violation of women’s rights and an obstacles to women’s full participation in cultural life, FGM.

#### **4.8. Gambia Press Union**

Gambia Press Union (GPU) was founded in 1978 by a group of private journalists under the leadership of the veteran Gambian journalist and publisher, the late Mr. W. Dixon Colley.

The union has grown to number more than 200 registered members many of whom are freelance journalists. Others work for both the print and electronic media including some in government service.

The GPU is a legally registered union that is dedicated not only to press freedom and media development, but also to the development of the country in general, and has under its umbrella The Association of Health Journalists.

GPU aims to be a champion of press freedom and the right of journalists to practice their profession in The Gambia. To that end it has taken issues with the government of the day in both the first and the second republics and is particularly concerned about the anti-press legislation programme of the present government. Through mass sensitisation campaigns and court action, it has succeeded in having the government repeal the Media Commission Act with its draconian provisions and repressive measures.

Currently, the union is seeking to bring about further reforms in the law, particularly the recently introduced Criminal Code (Amendment) Act 2005, the

Newspaper (Amendment) Act 2004 and Decree Numbers 70 and 71. The GPU has also organised and co-organised conferences and workshops on press freedom, freedom of expression, democracy and development.

Currently, there are 14 registered newspapers circulating in The Gambia. Three of these are daily, (Daily Observer, Point, Today); two come thrice a week (Daily News, Gambia Info, Voice, Foroyaa), one weekly (Gambia News and Report), others such as Standard, come out occasionally. All the circulating newspapers carry regular arts and culture columns such that events and activities in these areas are always well documented and expressed in the press. For example, the entertainment columns of the newspapers feature new releases by local musicians, art exhibitions and conference and seminars related to arts and culture. Indeed, the newspapers are reliable outlets for cultural expression and discussion. Although currently no newspaper carries regular spots on poetry or other literary forms, the Daily Observer in the 1990s used to carry popular literary columns where many budding writers have honed their skills in prose, poetry, and drama. In the past also, The Daily Observer and Foroyaa carried aspects of their news stories in Wolof and Mandinka, Arabic, French. This was a highly welcome development which promoted the use of indigenous languages in the national discourse.

There are nine private FM radio stations in the Greater Banjul area, namely Paradise FM, Unique FM, West Coast Radio 1, Kora FM, Capital FM, Soma FM, Kerewan FM, West Coast Radio 2, City Limits, Hill Top FM, Teranga FM, KWT FM, Vibes FM; The National radio GRTS has an FM station in Banjul and Basse. There are community Radio stations in Bwiam, Brikama, Gunjur, Bansang, Basse, Farafenni and Brikama. There is one national TV, GRTS TV which currently broadcast on satellite. The growing phenomenon of private radio stations could be traced to 1970 when Radio Syd, owned by Swedes, was licensed to broadcast as the first private radio in The Gambia and in Sub Saharan Africa. The private radios are veritable tools in enhancement of the exercise of cultural rights. Firstly, they have a huge air time dedicated to music, drama, sketch and sports.

Although still a large segment of the music output is foreign, there is a growing corpus of works by Gambian artistes who sing in local languages thereby enriching and preserving them. Second, the talk shows tackle issues concerning language use, proverbs, and folktales and offer listeners who call in the chance to learn more about their languages and culture. Third, the FM radios carry programmes in a wide variety of local languages. For example, the programme guide of Bwiam Community Radio on 99.1 FM shows that its programmes come out in Wolof, Jola, Mandinka, Karonninka, Fula, Serer, English, Manjako and

French. Thus over 90 per cent of the 13 local languages spoken in The Gambia are represented. This situation could apply to the other FM radio stations surveyed for this study; an apt indication of the role of broadcaster media in democratizing culture through language pluralism.

#### **4.9. Gambia Writers Association of The Gambia**

WAG was first formed in 1971 at the initiative of a few writers at the time. It was intended to use the Association to encourage budding writers to get their manuscripts to be published. The Association then published a periodical called *Ndaanan*. In August 2010, GAW held election for executive members of the Association. The rebirth of the Association occurred at the funeral of one of the renowned writers of Gambia i.e. late Lenrie Peters. To appreciate the potential role of GAW in the fulfillment of cultural rights, one has to look at the immense possibilities of expression that inhere in literature. A good example of a Gambian writer of note whose writings mirror current themes and concerns is Nana Grey Johnson. His literary and intellectual output spans a wide gamut of themes and subjects ranging from the brutalities of the Trans Atlantic slavery, political violence in independent Africa, corruption to profiling major Gambian historical figures and patriots such as EF Small. If however, we wish to find a leitmotif that connects or summarizes his writings, it is his desire to portray the plight of the poor, the deprived and marginalized. He always seeks to give voice to the voiceless. In his writings, we can see how a writer can contribute to defending rights of the weak through literature that is accessible and appropriate.

Gambian writers can also contribute to the promotion of cultural rights by combating cultural barriers. Cultural barriers are simply hindrances to cultural understanding and appreciation among and between peoples of different cultural backgrounds. By writing in local languages for example, our writers can promote indigenous tongues and foster greater unity and national identity. So far, however, there is very little published material coming out in national languages such as Wolof and Mandinka. This would have to be overcome if Gambian literature and writing is to take its rightful role in the promotion of cultural rights.

#### **4.10. Gambia Music Union**

The Union was established in 2008. Before then the musicians formed various associations. It collaborated with NCAC, the government department responsible for copyright to enforce the copyright Act. MUSIGA is involved in the sensitization of members on music development and how to enhance their careers. The Union is engaged in finding a way forward for Gambia music recording studios, minimizing the performance of foreign music as against local music and training for musicians. Electronic music assists recording artistes with recording,

distribution. Other ailments of the music industry include piracy, the lack of mutual understanding for contract payment, and intergenerational disputes. From the 1980s till now the music industry started retrogressing because of the departure of the earlier generation of musicians to seek greener pastures abroad. The Union registers members; only 50 members have registration cards out of 568 people who identified themselves as musicians. It has International affiliation with several international music associations. Music Producers, DJs and Promoters are associate members of the Union.

#### **4.11. Roots International Homecoming Festival**

The International Roots Festival commemorates the forced enslavement and transportation of millions of Africans to the America's and the Caribbean Islands. Thus the festival supports African descendents in the Diaspora who are seeking to embark on a spiritual quest for further enlightenment, discovery, development and fulfillment whilst confronting a physical past and coming to terms with their true antecedence. It is a biennial event celebrated in The Gambia since 1996, and has as its cardinal objective '*to reunite peoples of African descent with Africa while promoting The Gambia with her historical, cultural, and traditional values*'. The Festival organized by the Ministry of Tourism and Culture has educational, entertainment and historical value.

Beside the visits to places of historical, interest such as James Island and its related sites, the Festival is also a forum for cultural manifestations by the various ethnic groups of The Gambia. Its highlights include the Jola *Futampaf* initiatory ritual, which is hosted by the President of The Gambia at his home village of Kanilai. Gambians and Diaspora visitors take place in this initiation ceremony making it a forum for cross cultural understanding and appreciation. The spiritual powers and combat secrets of the Jola ancestors are on full display during the *Futampaf*. Side events of the Roots festival such as the inter-faith religious forum, musical jamboree featuring local and international artistes and the boisterous opening ceremony of traditional dances are also vehicles for the expression of cultural rights.

#### **4.12. Kanilai International Festival**

This is one of the most important cultural festivals in The Gambia, and has grown into a big international meeting of cultures since its first edition was held in 2003. The Gambian President in his home village of Kanilai hosts it every two years.

The festival is characterized by cultural displays by various cultural troupes within and outside The Gambia, thus creating the platform for cultural exchanges and understanding amongst the thousands of participants. The biennial event is meant among other things, to revive, preserve, promote and display diverse cultural heritage as well contribute to the promotion, maintenance and sustenance of international peace and integration through culture. The festival highlights every facet of culture and arts ranging from actual culture, mystical power demonstrations, dance, music and drama. The 2010 Festival brought together thousands of participants of diverse backgrounds and cultures within and outside the country. An impressive total number of 12 countries participated in this year's even namely: the Republics of Senegal, Mali, Sierra Leone, Nigeria, Ghana, Mauritania, Guinea, Guinea Bissau, the Kingdom of Morocco, the Republic of China on Taiwan, the Bolivarian Republic of Venezuela and the host, The Gambia.

The Kanilai International Cultural Festival is aimed at showcasing the diverse cultures of the world to foster mutual understanding and respect among people of different backgrounds', remarked The Gambian leader at the closing of the 2010 edition. The Kanilai International Cultural Festival also seeks to celebrate cultural diversity in Africa and humanity in general with the express purpose of promoting global peace, progress, and prosperity for all mankind. It goes without saying that the Kanilai International Cultural Festival promises a spectacularly diverse performing and visual arts heritage manifesting our cultural norms and values, beliefs, customs, and rites that helped in turning the friendly people of the Gambia into "The Smiling Coast of Africa".

What these and similar but smaller festival have in common is that they make culture accessible and available to the ordinary people in The Gambia and outside. These cultural meetings offer participants the unique opportunities of cultural mixing, exchange and dialogue which are key ingredients of a healthy development of cultural rights.

#### **4.13 Other Festivals**

Religious festivals such as Christmas and *Talabone*<sup>11</sup>, Eid prayers and others have come to highlight Gambian religious and cultural harmony as all Gambians celebrate them irrespective of creed. Immigrant communities in The Gambia such as Indians celebrate *divali*, Nigerian Yorubas celebrate *odua* yam festival, Ghanaians and other groups also have the right atmosphere to celebrate their heritage. This speaks well of Gambia's tolerance of other peoples cultures.

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<sup>11</sup> Celebration of the birthday of the Prophet of Islam

#### **4.14 Sites and Monuments**

The Gambia has a series of UNESCO World Heritage Sites such as the Stone Circles megalithic sites, Kunta Kinte (James Island) and related sites, which are fairly well preserved as sites of heritage and memory. Gambians and foreigners visit these sites to appreciate their significance.

#### **4.15. Traditional medicine**

In Gambia, traditional medicine is as much a part of life as is farming. Many people rely on it more than they rely on Western remedies. When possible, Western medicine is used in conjunction with traditional. The use of traditional remedies is not restricted to particular doctors or healers. Older Gambians, particularly the leader elders of a community, know how to use certain plants or herbs to facilitate good health. In fact, traditional remedies are usually the first recourse. The average citizen will visit one of the clinics that rely on Western medicine only after individual efforts using traditional remedies has not proven sufficient. Certain plant products can be purchased at the pharmacy; others are found in the bush.

Many people feel that there is something that can be gained medicinally from all plants. Therefore there is an infinite bank of treatments for disease.

Gambia has official legislative / regulatory texts governing the practice of traditional medicine. There is a licensing process for traditional health practitioners and some traditional medicine practitioners are involved in Gambia's primary health care programme. Ansumana Tamba a Jola healer told us *'if we are supported, we can fill a major gap in the health care system. We are more accessible to the people, more flexible and involve culture and religion in our treatments. This is an advantage of traditional healing'*. The fact that there is a conscious attempt by government to promote and streamline local healing in the national health scheme is obvious in the annual Traditional Medicine Trade Fair held every September at the Royal Victoria Teaching Hospital and in training of healer's medicine and traditional birth attendants.

## **Chapter 5: Conclusion**

### **5.1. Analysis and Interpretations**

As part of our methodology, questionnaire interviews were carried out with major stakeholders on cultural rights issues such as religious groups, NGOs and Civil Society, educators, media practitioners etc. The questionnaire raised the following issues:

- **What do you understand by the term ‘culture’?**
- **What is your definition of cultural rights?**
- **What is the role of culture in national development?**
- **Are women fully able to exercise their cultural rights?**
- **What is the role of government in promoting cultural rights?**
- **What are the obstacles in promoting cultural rights?**
- **How can cultural rights be strengthened in The Gambia?**
- **How is our education system promoting cultural rights?**
- **Etc**

These questions were meant to among other things measure our respondents’ perception and understanding of the term ‘culture’, ‘cultural rights’; assess how they thought culture is relevant to national development; examine their idea about the stake of women and children in the exercise of cultural rights; evaluate the respondents’ view about how the exercise of cultural rights is being impeded and encouraged in The Gambia, and to highlight the role of the educational system in maximizing the exercise of cultural rights.

Generally the six key respondents answered our questions fully, however, it is obvious that while they have a high understanding of the term ‘culture’ and its ramifications on national development, their appreciation of the concept ‘cultural rights’ is deficient. It is seen more as a foreign concept than an indigenous ideal relevant to Gambians’ aspirations.

### **5.2 What is Culture?**

Our respondents had various definitions of the idea of ‘culture’ which remain relevant to our discourse on cultural rights in The Gambia. They indicated that Culture includes the ideas, norms and values of a people. It also entails the socio-economic and political institutions, laws and resources of society. The state of development of society at anytime reflects their culture which is manifested in the way they relate to one another and to nature; the materials they utilize to build

their houses, or to cook their food or dress themselves up, as well as their belief systems and the way and manner they worship; their rites of passage and how they conduct their ceremonies.

They also contend that Culture is also about education, language and the search and use of knowledge. Thus culture is both material and immaterial, processes and institutions, resources and structures. The dominant element of culture is language. Ultimately in any cultural milieu, language serves as the link and manifests the relations that exist between people, institutions, structures, laws and values. Language thus is both a carrier and a depository of culture in which it is used as a vehicle to pass culture from one generation to the other. The daily practices and actions of members of society constitute what is referred to as cultural practices or customs.

### **5.3 Culture and National Development**

The response to this question was varied in style but similar in substance. Some respondents said that Culture does not have a role in development; rather it is development that seeks to develop culture. Thus the role or objective of national development is to develop culture, hence improve the way of life of a people. If we build a road across the Gambia, we achieve development that seeks to improve people's lives (culture) in terms of bringing about better communications, transportation and economic well among others. If we provide schools, health facilities, running water and electricity supply to communities across the Gambia where people can access these services, we therefore improve culture, i.e. the way of life of the people. Thus for culture to develop we need to develop the services and goods and ideas that will improve the way of life of the people in such a way that it will empower people; ensure the respect for the rights and freedoms of people; raise the dignity and status of people, etc. If there are laws that ensure transparency and accountability, or promote and protect freedom of expression, or allow the free access and ownership of land by woman as well as create systems that allow people to hold the government accountable, then we achieve better improvements in the lives of people, hence national development. Thus the purpose of national development is to improve culture – the way of life of a people. However, others responded that if we build culture, we are laying the foundation for progress as culture inspires and motivates people into dutiful action. The meeting point between the two opinions is that, culture and development are interdependent.

All the respondents agreed that there was a misconception about culture in the Gambia that seeks to define culture in terms of music, dance and food. In most

cases we consider culture to be static. But culture is not only about music and dance. Culture is a living reality that continues to change as new elements and dimensions are added or existing ones are modified or abandoned. Every people have culture – a way of life. Each and every society is affected by outside cultures as well. For example, 80% of the vocabulary of the English language is composed of French and Latin words that mainly refer to science, knowledge and modernity; this is because the English at a particular time of history had a less developed culture or way of life than the rest of Europe.

Cultural development therefore is about how to develop the way of life of a people for the better. Thus when we electrify the Kora or the Bukarabou, or bring new choreography into our dances, or new designs in our dresses as well as new architectural forms into house building, we are not abandoning culture, rather we are developing our culture. Some of the new ideas, modifications or dimensions can be influenced from outside like all other cultures have also benefited from foreign cultures. Thus the idea that there are deep-seated cultural practices and ideas is a farce. How deep-seated is the use of mobile phones as against FGM? Can one imagine the backlash that will erupt if there is a law banning the use of mobile phones? Just as FGM, these are materials that have formed an integral part of the way of life of Gambians, even though the Gambia does not manufacture phones. Thus when we develop our culture, we ultimately also achieve national development.

#### **5.4 Defining cultural rights**

Generally, they defined cultural rights as the rights that groups have to practice their culture without interference. In a multicultural environment, all peoples must be allowed and supported to practice their culture, which in the final analysis augurs well for all of society. Cultural rights are the right to practice one's religion, use one's language, adopt a family and bring up one's children accordingly; use one's names and dress codes and conduct one's ceremonies as according to one's culture.

However, respondents had a caveat: it must be noted that in a multicultural setting such practices and norms should not be allowed to infringe on the rights of other cultural groups, or raise contempt against anyone or degrade any human being for that matter.

One respondent was quick to add that 'The multiplicity and differences in cultures do not cause conflict. Rather multiple cultures are a resource that provides any society with multiple options, capacities and opportunities to develop the overall

culture of all peoples. One can conveniently argue that the number of diverse dishes, languages and folktales, dances and songs, values and worldviews of cultures in the Gambia are national treasures that can earn us social cohesion, political stability and economic wellbeing if utilized properly. The social capital derived from our cultures is so rich that they augur well for peace building, conflict resolution and good governance'. 'It is noted that the works of Shakespeare earn UK billions of pounds annually. What about if we develop Gambia cultural legends and folktales into books and videos to use in our schools as part of cultural education and market to the outside world'? Asked another respondent

### **5.5 Festivals and cultural rights**

On this questions, our interlocutors were unanimous in their believe on the power of festivals to promote cultural rights. However, were of the opinion that even though Festivals are ceremonies that are organized for the display of aesthetic aspects of culture such as dance, drama and songs and artistic materials, there were no national festival of Gambian cultures yet, which is urgently needed. At the same time they pointed out that there is also no national theater or centre for the display of artistic materials and performances in the Gambia. Culture as indicated earlier also has an economic value. Such festivals, theaters and centers can generate employment and revenue for the populace and the government. However it must be emphasized that for such festivals, theaters and centers to have their desired effect and impact meaningfully on our national life and development, they must be conducted in a non-partisan manner, devoid of political patronage and marginalization of groups, individuals and ideas.

### **5.6 Women's rights**

The consultant considered it necessary to appraise the respondents' level of thinking about women's rights in the Gambia which is relevant in the discourse of cultural rights. They contended that The Gambia is a conservative society (i.e. oppressive and exploitative ideas and relations dominate) in which rights of women are continuously violated at home and institutions across the board. While a Women Act 2010 has been passed, the implementation of the Act has just started. This is because laws are not mere rules and regulations, but that they also have cost implications. There are a number of provisions in the Act that demand resources from employers, the government, and individuals. To even sensitize the people fully about this law requires huge resources and capacities.

### **5.7 Child rights**

On the state of children's rights, the consultant found out that just as the Women Act, there is also the Children Act 2005 which is also beautiful in paper, but has yet to be implemented in full. This is because the Act has major cost implications that have to be provided. For example the Act calls for juvenile prisons and courts in all regions, yet they are not there. Furthermore it is also about political will and commitment on the part of the decision and policy makers to give the necessary attention that these laws (Women and Children acts) deserve.

### **5.8 Copyright**

The issue of intellectual property exercised the minds of the respondents. They were aghast that while there was a copyright law, its implementation was weak, and did not lose sight of the fact that the enforcement of copyright law was a major challenge that requires huge amount of resources, time and capacity. It also required engagement and consultation with all stakeholders in a manner that is not confrontational. Given the new law and the culture of piracy, the enforcement of the law must be done in a manner that will generate cooperation otherwise it may generate and strengthen backstreet piracy.

### **5.9 Media rights**

The respondent from the civil society and the The Gambia Press Union were unanimous in that while the Gambia Constitution of 1997 guarantees freedom of the media (Section 207/208), there existed a lot of laws that impede media freedom such as the Criminal Procedure Code which creates offences of sedition and false news publication, Newspaper Registration Act, Public Order Act and Official Secrets Act. The limitations to press freedom are further aggravated by the unfavourable violent attacks against the media including arrests. However, others pointed out to the lack of training of journalist as another obstacle to media freedom.

### **5.10 Harmful traditional practices/Female Genital Mutilation (FGM)**

Our interviewees were in agreement that FGM is a violation of the rights of women and girls. The UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW) as well as the Africa Charter on the Protocol on Women (Maputo Protocol) and on the Rights and Welfare of Children (ACRWC) all condemns FGM as a harmful practice. The Gambia has ratified these laws as well as the UN Convention on the Rights of the Child. The Gambia constitution also condemns all forms of practices that harm or degrade the individual. However FGM is still a common practice that is yet to be banned. The

Women Act 2010 which draws inspiration from the CEDAW and the Maputo Protocol conspicuously ignores FGM as it is not mentioned in any provision.

#### **5.11. Are women able to fully exercise their cultural rights?**

In this question, we sought opinions about the ability of women who make up over 50 per cent of The Gambian population, to exercise full cultural rights. This would be a measure of the level of the exercise of rights in the country. Overall, women have the legal and constitutional rights to exercise cultural rights, however, there were impediments rooted in culture and traditions. A respondent said: ‘The issue here is not merely about women practicing their cultural rights; rather it is about whether such cultural practices are rights or are violating rights. In my view women are still marginalized, oppressed and exploited as a result of backward cultural practices such as FGM, wife bartering, wife inheritance, lack of ownership of land, sexual harassment and many other forms of subtle violations taking place at homes, communities and offices. Yet while these violations continue women are disempowered by the same cultural practices to demand justice, defend themselves or get protection. When a wife takes her violent husband to the police or court for physical abuse, such a woman is more likely to be ostracized by her family, neighbors and the general public than receive support’.

#### **5.12. Role of Government in promoting cultural rights?**

The consultant’s task was to assess the perception about Government’s share of the task of ensuring that full cultural rights are exercised. Respondents believed that ‘The government is the primary duty bearer in any society and therefore bears the topmost responsibility to protect and ensure that all people practice their culture as well as ensure the development all of all cultures in the society that it governs. The government must therefore create laws, institutions and provide the necessary resources and capacities to ensure that the necessary environment is created for all cultures to be developed and practiced’. Others maintained that Civil Society should complement Government’s role.

#### **5.13. Obstacles to the exercise of cultural rights in the Gambia?**

This is a key question which is central to this research, and the responses give an excellent indication of the thinking of stakeholders about the impediments facing the exercise of cultural rights. In the first place there is a myth about culture which has led to the downplaying of the role and function of culture in society. In this instance therefore we have failed to develop our culture hence national development. Such wrong notions and misunderstanding about culture can be

found even at the level of decision and policy makers as well as professionals. This category of people are so crucial that they need to have a clear understanding of what constitutes culture in order to make the right policies, laws and institutions to address cultural development. Thus the obstacles include a lack of awareness about culture and the failure of the government and institutions of development such as the NCAC to create the enabling environment for the development of our culture.

**5.14. Are children’s cultural rights fully respected? Do children have access to cultural education? Cultural upbringing? Culture friendly environment?**

Just as women, children are equally marginalized in their lives leading to abuse and denial of opportunities in many respects. Children have a right to education, leisure and recreation and clean environments. Children need to be brought up in decent family and community environments in order to develop as well cultured human beings who can play their rightful role in the development of a new and democratic culture. The current clamour about wayward children and the unruly behavior of our children in our homes, schools and beaches are all a reflection of eroding cultural values that children are subjected to. In this case, children are not enjoying decent culture that will ensure decent behaviors. When one watches the soap operas on TV, you ask yourself what is the message in these movies that will benefit our children and society. Human beings are cultural beings, hence the more developed and empowering a culture is, and the more benefits it brings to a people. In a nutshell children are exposed to culture that seeks to limit their capacity to be decent, responsible and patriotic adults tomorrow. Parents and the government have failed to ensure such a decent culture which will continue to have a far reaching effect on our development. If majority of the people lack a sense of honesty, decency, adherence to decent principles, accountability, one wonders how such a society can develop. One will find in our children and youth a high sense of materialism, get-rich-quick mentality, and a sense of fanfare as opposed to harboring nationalistic feelings towards their society other than in football. Vast majority of our children and youth lack interest in national issues unless if it concerns fanfare and merry making.

**5.15. How is Gambian education promoting cultural rights?**

- a. Civic education,**
- b. Social studies,**
- c. Religious studies?**

The school curriculum on cultural studies leaves much to be desired. Education is an aspect of culture that seeks to mould individuals to become responsible, capable and able to deliver. Educational institutions should serve as foremost

cultural centers. I do not see an impartial, objective and progressive education system in the Gambia that also seeks to promote cultural development. There is a need to review our education and culture vis-à-vis national development. We need to assess the content of our education, for example in terms of history lessons taught, or social studies and civic education. When we are able to develop a cultural education that promotes unity and respect in diversity, respect for rights and freedoms, peace building and non-violence and performance and accountability then we are sure to be on a path of development.

#### **5.16. Strengthening cultural rights in the Gambia?**

In the first place the government has to recognize that development and politics is about changing culture. Deliberate attempts have to be devised to democratize our culture and ensure that a culture of rights, performance, standards and accountability become a way of life. The necessary laws, policies and institutions have to be created to promote culture other than just music and dance. Even in music and dance, backward forms of culture can be transmitted which have to be discouraged to ensure that all aspects of our culture are positive, democratic and productive. Our schools at all levels have to have a curriculum that supports the development of our culture. The true history of the Gambia and Africa must be taught. In most of our schools, the history is a distortion and taught in isolation. We have to realize that Gambia's history is directly connected to the history of Ancient Egypt and this has to be shown.

#### **5.17. Mass media and cultural rights?**

The role of the mass media in the promotion of culture is immense. In the first place, the Gambia has to state its cultural policy in order to give direction to national media. The Gambia's national media is its voice, ears, eyes and image. It should reflect at all times programs that seek to project a national image based on our culture and identity. This means all programs other than news that do not support national culture and identity have no place in our national media. In some countries such as France, all radio and television stations are required to provide about 30% of airtime to French cultural programs. In many cases one will notice that our national radio and television plays more foreign music, movies and educational programs than national cultures. It has been noticed that even at Gambian night clubs, one hardly hears a Gambian music for an entire night!

In order to determine the role of national media, once again the decision and policy makers and professionals in charge of the media and the government as a whole have to understand what is culture and its role in our national character. When we introduce cultural studies in schools and ensure our culture is democratic, we can only strengthen it through national media.

## **Chapter 6. Recommendations**

The issue of cultural rights is indeed a complex and invaluable one. Complex in the sense that it is dimensional, multi-faceted and could easily be given different meaning by different persons depending on the mores and values. Like its parent concept, ‘human rights’, cultural rights is therefore, not yet universally defined. This has the advantage of making it a dynamic, amorphous ideal that can be adapted to changing times and circumstances. Yet, it has the drawback of making the idea obscure and therefore impossible to fully grasp and implement. It is invaluable in the sense that cultural rights are defining of our identity. As we cannot survive without an identity, we cannot live normal lives without a modicum of cultural right such as language and heritage.

What is needed most therefore is for all stakeholders to realize that cultural rights are here to stay and are non-negotiable just as human rights are. They are either fully observed or respected or they are negated to the detriment of society. Public officials and governments have the onerous duty of protecting cultural rights from unnecessary violations in times of peace and turbulence; however, this task does not rest on them alone, the private sector, international organizations like UNESCO, NGOs and multilateral agencies have each a role to play in the protection of cultural rights. A combine effort shall be able ensure observance and respect of cultural rights.

From the foregoing analyses and discussions, we wish to proffer the following recommendations regarding the ways to maximize the understanding and implementation of cultural rights in The Gambia:

1. Review and amendments of local regulations and laws that impinge of the exercise of cultural rights. A good example is the Copyright Act of 2004, which needs to be revisited to cater for issues such as digital musical piracy which is now a major issue of intellectual property theft.
2. The Gambia has recently ratified international legal instruments such as the UN Convention on Intangible Heritage under which the Kankurang Mask has been inscribed as a heritage of Universal value, and the UNESCO Convention on Cultural Diversity. This is an important development. For example, this would enable the Kankurang to benefit from UNESCO support for its preservation and interpretation. However, other conventions such as the African Cultural Charter and the Charter for African Cultural Renaissance should be ratified.
3. An educational and public awareness strategy on cultural rights should be mounted targeting public officials and the masses to maximize the understanding and appreciation of cultural rights

4. Increase the protection and conservation of heritage sites in the country such as James Island, a UNESCO World Heritage Site, to prevent its loss to the elements
5. Introduction of cultural education in at all levels of the school system so as to impart basic cultural knowledge in children at an early age for better cultural appreciation
6. Promote cultural industries such as batik, tie and dye, wood sculpture, recycling, basketry etc to preserve them as traditional industries and to make them employment generating sectors
7. Establishment of more public libraries, reading centres. Notably, each administrative region should have a library to promote reading culture, learning and improve educational standards
8. Institutions concerned with cultural rights such as theatre groups, music troupes and the NCAC should be strengthened to enable them play their roles to the fullest
9. The Gambia National Troupe should be revived as the compendium of Gambian musical heritage and for it to disperse the authentic Gambian culture abroad
10. More museums should be established in all the Regions to preserve local history and culture at the grassroots level, and also to facilitate access to such centres of culture to the wider Gambian public.
11. National Arts and Culture awards should be introduced to honour and exalt deserving cultural and artistic creators.
12. Alternative Dispute Resolution mechanism using Gambian cultural ethos and mores should be encouraged.
13. The statue of EF Small, Gambian patriot, should be erected and his biography published for posterity to give his illustrious contributions to Gambian development a fitting recognition.
14. All Gambian historic and heritage sites including museums should be made accessible to people with physical disabilities.
15. The urban art such as parks, monuments, statues erected in and around Banjul in the past 15 years should be well maintained and interpreted by the Municipalities as they are part of our national heritage.
16. A copyright royalties collection mechanism should be instituted with speed to enable Gambian creators to benefit from their labour. Government should give a starting capital to the royalties collection office to enable them start until they are self supporting.
17. The NCAC and civil society organizations should endeavour to document for posterity women's indigenous knowledge in medicine and other areas.

18. The Gambia should promote the idea of nation branding to promote culturally positive Gambian attributes.
19. Gambian and Senegalese writers should form a pan organization of Sene-Gambian writers to assist in greater cooperation and understanding between the two countries.
20. National Media should promote national folktales and storytelling, including the use of New Media such as Podcasting etc.

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