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## The Human Rights Support Mechanism

The HRSM is a global, multi-year, USAID-funded program implemented by the PROGRESS consortium composed of Freedom House, ABA ROLI, Pact, Search for Common Ground, and Internews. To learn more about HRSM visit: <https://freedomhouse.org/programs/emergency-assistance-and-thematic-programs/human-rights-support-mechanism-program>

## Objectives of the Study

The Study is in line with the [HRSM Learning Plan](#) and was conducted by the ABA ROLI in collaboration with Freedom House with the aim of filling the evidence gaps in the growing academic literature on the role of National Human Rights Institutions in pursuing justice.

## Scope and Method

The study in The Gambia was completed using literature review, 26 key informant interviews, and 3,176 online survey responses, and a stakeholder workshop to address the research questions below:

1. How does interaction with an NHRI or CSO change the way individuals move through their justice pathway?
2. Are there different points in an individual's justice journey that show where trust in state is increased or decreased?
3. What actionable strategies can NHRIs or CSOs take to strengthen the ability of NHRIs to seek justice for individuals who experience rights violations?

# National Human Rights Institutions (NHRI) and their Interactions with Civil Society Organizations (CSOs)

## Summary of Findings: The Gambia



### Human Rights Conditions

Under former President Yahya Jammeh, who first seized power in a military coup in 1994, the Gambia experienced years of massive violations of political and civil liberties under the former president Yahya Jammeh, who first seized power in a military coup. While respect for fundamental freedoms

(i.e. freedom of expression, association, and assembly) grew in the succeeding administration of President Adame Barrow, he has faced criticism for continued corruption.

In 2022, several reports of inhumane treatment and conditions in prisons; torture and degrading treatment or punishment by or on behalf of the government; gender-based violence; child, early, and forced marriage, and female genital mutilation/cutting and other forms of such violence; and laws criminalizing consensual same-sex sexual conduct between adults were received by The Gambia National Human Rights Commission.

## The Gambia National Human Rights Commission (NHRC)

The National Human Rights Commission (NHRC) was established by an Act of the National Assembly in 2017 as The Gambia's national human rights institution. It is a permanent, independent body charged with the mandate of promoting and protecting human rights. The NHRC has the powers, rights, and privileges vested in the High Court at trial. It receives and hears complaints from the public on human rights violations, recommends appropriate remedial actions to the Government, and seeks appropriate remedial actions on behalf of victims. The Gambia NHRC has two regional offices covering four regions in the urban areas, in addition to the main central office located in the Greater Banjul Area.

## Core Functions of the NHRC

- Receive individual or collective complaints on allegation of human rights violations
- Investigate human rights violations
- Hear and facilitate conciliation proceedings
- File complaints to competent bodies
- Guide complainants and victims and provide legal assistance to those requesting it
- Visit detention facilities
- Raise public awareness on human rights
- Monitor/ report human rights conditions
- Monitor and contribute to national compliance of international human rights instruments that the State has signed into
- Participate in discussions on and recommend human rights policies and ratification of international human rights instruments
- Contribute to human rights education and research

## The Role of the NHRC in Addressing Justice Needs

A complaint may be filed to the NHRC in written form or verbal report formats, filed in person to any of the five mobile legal aid clinics in rural areas or to its main office, and may also be mailed or filed online (via letter or complaint form).

The NHRC Rules of Procedure on Complaints Handling, the NHRC Act 2017, and other relevant laws inform the Commission's procedures for determining human rights violations. The NHRC pursues cases of human rights violations by investigating cases and making a determination of the case. As a first step, it obtains statements from victims and witnesses of human rights violations or complainants., followed by an investigation and subsequent report done by its investigators. The report is reviewed by the legal department which then prepares a legal opinion and makes appropriate recommendations to provide redress for the victim. The final stage is a determination or finding made by the Commissioners that establishes whether a human rights violation has occurred.

Although the majority of the cases at the NHRC come by way of written complaints to the Commission, human right violations may be discovered through social media or routine monitoring visits to prisons and other detention facilities. In such cases, the Commission takes on the case, prepares a report and makes appropriate recommendations.

The Commission also provides guidance and legal advice to support complainants in getting redress, especially in cases where the commission lacks the jurisdiction to hear the complaint.

According to the NHRC, the time it takes to conclude a case varies and depends on several factors: namely the nature of the complaint, the available evidence, and cooperation from the respondent and witnesses.

Complaints most frequently received by the NHRC include alleged violations of freedom of speech, right to fair trial, and freedom from discrimination.

## The Role of CSOs in Addressing Justice Needs

Many of the CSOs interviewed raise awareness and refer cases of human rights violations to the NHRC and other state institutions. CSOs noted however, that more and more CSOs appear to be adding services such as providing legal advice and psychosocial support to victims. These services greatly complement the work of the Commission, especially for victims of human rights violations. In these cases, CSOs advise them and work with them in filing a complaint with the NHRC or reporting the matter to the police.

The CSOs that have the capacity also provide psychosocial support and refer victims or complainants with other service providers. Additionally, many of the CSOs also report that they stay in contact with the individual throughout the process of making a claim and even thereafter to provide advice, follow-up, and psychosocial support as needed.

## NHRC and CSO Interactions

The NHRC works closely with CSOs in a few ways, notably, documenting human rights violations and sensitizing communities and groups on human rights and the role of the NHRC. CSOs were found to play a critical role in supporting victims in reporting rights violations by referring them to the Commission, supporting them in filling their claims or providing victims with other key services such as psychosocial support or legal advice.

The Commission engages CSOs in its activities, including trainings, and also hosts a CSO collaboration platform that allows them to meet with CSOs quarterly. CSOs are also members of some of the Committees that the Commission organizes, such as the Vulnerable Persons Committee which deals with human rights issues affecting marginalized groups.



CSOs work closely with specific communities and are one of the first institutions that victims report cases of human rights violations to. The NHRC recognizes that they are important allies in rendering the NHRC services accessible especially for the marginalized communities. Based on interviews with key informants, the CSOs regularly refer victims to the NHRC. In these instances, the CSOs support the victims during the filing process and in following up on their cases. CSOs, especially those that work on women's rights and Sexual and Gender Based Violence (SGBV), offer psychosocial services which has been a key area of collaboration with the NHRC, although these services are mainly limited to the Greater Banjul Area.

### **Individual Responses to Human Rights Violations**

In an online survey of individuals from The Gambia, close to one fourth or respondents reported that they or someone in their household experienced human rights violation/s in the last two year. The most commonly violated rights, according to the survey, are freedom of speech, right to fair trial, right to equal pay, right to vote, and freedom from discrimination.

Many respondents who have experienced human rights violations reported that their alleged perpetrators were state actors, including government entities and the police (39%). A smaller portion indicated that the perpetrator was another non state person (16%) or an employer (11%), while 19% do not know who the perpetrator was.

When they or someone in their household experienced a human rights abuse, the most common response was to reach out to family and friends (13%).

People also turned to the police (8%), posted on social media (8%), and reached out to the NHRC (7%), indicating that individuals take many varied paths to seek justice. Only one-third of people who acted on the rights violation reported that their situation improved, while 18% claimed it had gotten worse. Most of the respondents chose to act in the manner they did because a past experience showed that the option was effective to them or someone they know (31%), because it was the only option that would work (28%) or that it was the only safe option (21%).

Scenarios were also provided through the online survey to identify corresponding actions individuals may take in specific human rights conditions and the possible factors they would consider in making those choices. In contrast with the self-reported actions, when faced with hypothetical scenarios, the most common response was that individuals should seek help from the NHRC (21%). Other responses were spread across free legal assistance providers (11%), police (10%), courts (8%), and friends and family (8%), CSOs/NGOs (7%), lawyers (7%), and social media (7%), indicating that there is little consensus on how to respond to hypothetical human rights violation. Respondents indicated that they prioritized effectiveness in making their choice, followed by safety. When respondents were shown hypothetical human rights violations with a female victim, they were more likely to suggest that the victim go to the police or traditional leaders than when shown hypothetical scenarios with a male victim.

### **Trust in the NHRC**

The majority of CSOs interviewed stated that they trust the NHRC and believe that the Commission is generally trusted by the Gambians. Consistent to stakeholder feedback, most respondents to the online survey trust the NHRC regardless of whether they have experienced a human rights violation or not. However, trust is lower among people who experienced a human rights violation. 79% of respondents indicated that they think the NHRC is trustworthy. 77% of those who report that they or someone they know experienced a human rights violation in the past two years think that the NHRC is trustworthy. In comparison, 86% of those who did not experience a human rights violation (them or someone from their household in the past two years) find the NHRC is trustworthy; showing a difference of 9%.



# 79%



79% of respondents indicated that they think The Gambia National Human Rights Commission (NHRC) is trustworthy.

## Trust in CSOs

Like trust levels for the CNDH, majority of survey respondents trust CSOs/ NGOs, however trust in CSOs/NGOs is lower among people who experienced a rights violation. 77% of those that indicate they or someone from their household experienced human rights violations think that NGOs are trustworthy. In comparison, 86% of those that did not experience human rights violations find NGOs trustworthy, indicating a difference of 9%. However, victims that the study interviewed expressed that they were comfortable reporting cases to CSOs.

## Individual Experiences in Interacting with NHRC and CSOs

Individuals interviewed indicated that they approach the NHRC primarily for complaints pertaining to abuse of power/office, police harassment, and SGBV, however only 7% of the survey respondents reached out to the NHRC after they or someone else in their house experienced a human rights violation. Individuals trust the NHRC, but have less trust in the state in general. Nonetheless, interviewees noted that their trust for the NHRC affects their trust in government. Individuals also indicated that they trust the NHRC more than CSOs primarily because of recognized limitations in CSO capacities to exhaust efforts on their cases.

Some individuals interviewed highlighted some concerns in interacting with the NHRC and CSOs. One of the reasons cited by interviewees to have raised their concerns in interacting with the NHRC is the composition of investigators. Many of its investigators are former law enforcement officers. Interviewees added that while they shared these concerns all of those that interacted with the NHRC were satisfied with the service and the outcome in their case. Another matter of concern for individuals in interacting with the NHRC and CSOs is their fear of retaliation. The NHRC and CSO representatives interviewed shared that they do not have enough resources to effectively protect witnesses and victims, and they perceive this as a deterrent for victims who are in fear of their security.

Individuals felt comfortable in navigating through the NHRC complaint filing and processing steps and noted that they would be able to navigate through the process again in the instance a human rights violation occurs.





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## Recommendations Based on Findings

1

### Improve accessibility to more victims of human rights violations

As the Commission moves to sign a Memorandum of Understanding with relevant government agencies and CSOs/ NGOs who register complaints of human rights on its behalf and pass them to the Commission for appropriate action, a number of interviewees mentioned partnerships as a crucial strategy for the NHRC to increase its accessibility. By partnering with CSOs, the NHRC could potentially reach more Gambians who may not be aware of the Commission or its mandate but also provide greater accessibility to its complaint's mechanism for victims.

2

### Tailor efforts to meet the needs of victims

The impact of human rights violations on an individual can be complex and long-lasting with many victims often mentioning a range of issues stemming from the rights violations including prolonged psychological trauma; fear, shame, and guilt; alienation from family and friends; loss of livelihood; damage to reputation and sense of self; and risk or fear of retaliation. It is therefore essential that any system that seeks to deal with victims' grievances must be victim-centric – designed with victims in mind and routinely monitored to ensure that it continues to meet the needs of clients. A number of victims as well as CSO actors interviewed identified key areas where the NHRC can strengthen its effectiveness in dealing with victims. The existence of trained professionals with capacities to deal with vulnerable groups is key. Secondly, a review of NHRC processes may ensure safeguarding and protection of victims from further victimization. Lastly, strengthening the NHRC's follow-up mechanisms, exploring collaborations with CSOs to support victims and communities as they reintegrate may be considered.

3

### Build the capacity of state institutions especially the security sector

Almost all the CSOs and victims when asked about the most prevalent types of human rights violations highlighted the involvement of state security agents in human rights violations. As part of the country's transitional justice process, a security sector reform was and is still part of the reform agenda despite limited progress in this area. Pursuing institutional reforms to ensure that processes are more victim-centric and the availability of redress for victims is key.

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