**The Gambia**

*The purpose of the Housing Rights and Human Rights Brief is to provide a succinct overview of housing rights and human settlements-related human rights within a specific country. It is designed for project designers to familiarize themselves with the human rights situation in the country that they are working in. The Housing Rights and Human Rights Brief is not intended to be a comprehensive analysis of all human rights, yet to provide an overview of housing rights and other human settlements-related human rights within the national and the UN Delivering as One contexts. Further, this Brief is not intended to cover the entire legislative and regulatory framework of the country concerned.*

*The Brief outlines specific articles of the Constitution, national and local legislation, and other human settlements-related policies and acts. It further explains specific international legal commitments, with particular emphasis on the key conventions that the country has signed and/or ratified. UN reviews and recommendations, particularly the Universal Periodic Review process, are also outlined. The final section provides information on previous UN-Habitat projects in the country and links for further information and elaboration.*

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**Revision History**

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| *3* | *09/02/2016* | *SG* |

**Summary**

The Constitution of The Gambia came into effect in 1997. While the Constitution does not provide for the right to adequate housing, protection against deprivation of property is enshrined. The Constitution also contains a provision on compulsory acquisition of land which involves displacement, and the obligation of the Government to resettle the displaced inhabitants on suitable alternative land.

The Ministry of Local Governments and Land is the key ministry in realizing the right to adequate housing, and the Land Commission is responsible for land administration and property disputes. The National Development Strategy (Vision 2020) contains goals related to access to housing.

The Gambia has ratified almost all major international human rights conventions, including the International Covenant on Economic, Social and Cultural Rights, which contains the right to adequate housing, as a component of the right to an adequate standard of living.

UN review mechanisms have expressed concerns over population movement to unplanned and unregulated settlements in urban areas, which lack adequate housing and where there is often no access to safe drinking water and adequate sanitation. UN-Habitat is assisting government of The Gambia through the Participatory Slum Upgrading Programme.

**Legal Framework**

***Constitution[[1]](#footnote-1)***

The Constitution of the Second Republic of The Gambia was approved in a national referendum on 8 August 1996 and came into effect on 16 January 1997. While the Constitution does not provide for the right to adequate housing, protection against deprivation of property is enshrined. The Constitution also contains a provision on compulsory acquisition of land which involves displacement, and the obligation of the Government to resettle the displaced inhabitants on suitable alternative land.

‘Article 22: From Deprivation of property:

1) No property of any description shall be taken possession of from deprivation compulsorily, and no right over or interest in any such of property shall be acquired compulsorily in any part of The Gambia, except where the following conditions are satisfied [….]

4) Where a compulsory acquisition of land by or on behalf of the Government involves the displacement of any inhabitant who occupy the land under customary law, the Government shall resettle the displaced inhabitants on suitable alternative land with due regard to their economic well-being and social and cultural values.’

**Government**

***Political System***

The Gambia is a republic where the President is the Head of State and Government. Legislative authority is vested in the National Assembly.

Ministry of Local Governments and Land (MOLGL)[[2]](#footnote-2)

The Ministry of Local Governments and Land is the main agency for local government planning and land development in The Gambia. Property sales are approved at the physical planning department.

Mission Statement:

* To achieve equitable and efficient distribution of state land resources for The Gambia;
* To make sure that land use plans and maps accessible countrywide;
* To ensure production of a development systems and control policy;
* To ensure properly structured LGA administrative systems and effective local government;
* To ensure access to development resources by the people to facilitate socioeconomic development for poverty reduction;
* To improve the capacities of local organisations and other groups safeguard sustainable development.

The Land Commission

The Land Commission operates under the Ministry of Local Governments and Land Department of Lands and Surveys.

Land Commission Act (2007):

14. The Commission shall

a) Advise the Secretary of State on policy matters relating to land administration to ensure strict adherence to those policies and transparency in land allocations;

b) Investigate disputes on land ownership and occupation in any area in The Gambia;

c) Assess land rent and premium for properties within any area in The Gambia;

d) Monitor the registration of properties and inspect land registries and records;

e) Be responsible for all matters relating to national boundaries, including monitoring and reporting to the Secretary of State;

National Development Strategy (Vision 2020)[[3]](#footnote-3)

Objective 6: HOUSING

Over the Vision period, programmes on housing and shelter-related development shall draw on the strategies recommended in the Habitat II initiative (1996) towards general improvement in housing conditions and environmental sanitation. In the context of a revised and updated National Housing Policy, the programmes shall also focus on the causes and consequences of expanding demography and rapid urbanisation, increasing quality housing production and enabling more regular replication of public housing projects towards satisfying the current national housing deficit. In this regard, priority shall be given to easing access to land for housing, improving on and encouraging the use of local building materials, addressing the manpower and technical limitations of the construction industry. The creation of housing banks, housing co-operatives and other institutions specializing in financing shelter-related development shall be encouraged.

**International Conventions[[4]](#footnote-4)**

The State has ratified almost all of the major international human rights conventions, including the Covenant on Economic, Social and Cultural Rights, which provides for the right to adequate housing, as a component of the right to an adequate standard of living.

|  |  |  |  |
| --- | --- | --- | --- |
| Treaty Description | Treaty Name | Signature Date | Ratification Date, Accession(a), Succession(d) Date |
| Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment | CAT | 23 Oct 1985 |   |
| International Covenant on Civil and Political Rights | CCPR |   | 22 Mar 1979 (a) |
| Convention on the Elimination of All Forms of Discrimination against Women | CEDAW | 29 Jul 1980  | 16 Apr 1993 |
| International Convention on the Elimination of All Forms of Racial Discrimination | CERD |   | 29 Dec 1978 (a) |
| International Covenant on Economic, Social and Cultural Rights | CESCR |   | 29 Dec 1978 (a) |
| International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families | CMW |   |   |
| Convention on the Rights of the Child | CRC |  05 Feb 1990  |  08 Aug 1990 |
| Convention on the Rights of Persons with Disabilities | CRPD |   |  07 Jun 2015 (a) |
| Convention Relating to the Status of Refugees | Refugee Convention |  | 07 Sep 1966 (d) |
| Protocol Relating to the Status of Refugees | Protocol Relating to the Status of refugees |  | 29 Sep 1967 (a) |

 The Gambia has not ratified:

* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

**UN Agencies**

UN review mechanisms have expressed concerns over population movement to unplanned and unregulated settlements in urban areas, which lack adequate housing and where there is often no access to safe drinking water and adequate sanitation. Also, the State of The Gambia has been recommended to ensure that no forced evictions or restrictions on access to adequate housing are imposed on the basis of sexual orientation.

***Universal Periodic Review***

*The Universal Periodic Review (UPR) is a unique process which involves a periodic review of the human rights records of all 193 UN Member States. The UPR is a significant innovation of the Human Rights Council which is based on equal treatment for all countries. It provides an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights. The UPR also includes a sharing of best human rights practices around the globe. Currently, no other mechanism of this kind exists.*

First UPR (2011)[[5]](#footnote-5)

Gambia was first reviewed in March 2010.

‘Recommendation 5: Ensure that no forced evictions or restrictions on access to adequate housing are imposed on the basis of sexual orientation.’

‘Recommendation 6: Ensure non-discrimination in access to adequate housing, and prevent forced evictions, as well as the threat of forced evictions, on the basis of sexual orientation or gender identity.’

Second UPR (2014)[[6]](#footnote-6)

There were no recommendations made relating to the right to adequate housing.

***Report of the United Nations High Commissioner for Human Rights (2014)[[7]](#footnote-7)***

*The Report provides a comprehensive review of the Human Rights situation in a given country and is presented to the Human Rights Council.*

The Report does not make any reference to the right to adequate housing.

***Committee on Economic, Social and Cultural Rights (2014)[[8]](#footnote-8)***

*The Committee specifically reviews states that have ratified the ICESCR on their compliance with the rights enshrined in it, including the right to adequate housing.*

The Committee reviewed Gambia in 2014 and made the following recommendations:

24. The Committee regrets the inadequate information provided in the State party’s report on the situation of housing, as well as on the existence of social housing. In this respect, the Committee expresses its concern about the lack of clarity on the legal status and mandate of the Social Security and Housing Finance Corporation. The Committee is also concerned about the:

(a) Impact of the increasing changes in rainfall patterns on the livelihood and property of the population, particularly in the northern parts of the country and in urban slums;

(b) Reported population movement to unplanned and unregulated settlements in urban areas, which lack adequate housing and where there is often no access to safe drinking water and adequate sanitation (art. 11).

25. While appreciating the progress achieved in improving access to safe drinking water and sanitation, the Committee is concerned that access by the population in rural areas to safe drinking water and sanitation remains inadequate (art. 11).

***United Nations Country Team (UNCT)[[9]](#footnote-9)***

*The UNCT ensures inter-agency coordination and decision-making at the country level. The main purpose of the Country Team is for individual agencies to plan and work together, as part of the Resident Coordinator system, to ensure the delivery of tangible results in support of the development agenda of the Government.*

The Gambia Country Team does no specific work on housing.

***United Nations Development Assistance Framework (UNDAF)(2012-2016)[[10]](#footnote-10)***

*The UNDAF is the strategic programme framework that describes the collective response of the UN system to national development priorities. The UNDAF forms the overall framework for the UNCT’s work in the Gambia between 2012-2016. This section should include any specific recommendations made in regards to housing.*

The Gambia UNDAF contains no references to the right to adequate housing.

**UN-Habitat[[11]](#footnote-11)**

UN-Habitat projects in the Gambia include:

Participatory Slum Upgrading Programme (2011-2015)[[12]](#footnote-12)

The Participatory Slum Upgrading Programme is at its second implementation phase in The Gambia. The purpose of the programme is to focus on the development and adoption of inclusive policies and strategies for slum upgrading. The Programme also aims at strengthening community, city and national stakeholders’ capacity. UN-Habitat has mainly focussed on selected cities like Banjul, Brikama and Kanifing.

**Further Information**

* Constitution of The Gambia: [http://www.ilo.org/dyn/travail/docs/1952/GMB48490.pdf](http://www.ilo.org/dyn/travail/docs/1952/GMB48490.pdf%20)
* Universal Periodic Review: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/GMSession20.aspx>
* Report of the United Nations High Commissioner for Human Rights: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/139/01/PDF/G1413901.pdf?OpenElement>
* UNCT: <http://reliefweb.int/organization/unct-gambia>
* UNDAF:<http://countryoffice.unfpa.org/thegambia/drive/UNDAF_2012-2016-.pdf>
* UN-Habitat Gambia Summary: <http://mirror.unhabitat.org/content.asp?cid=10996&catid=592&typeid=79>
* UN-OHCHR: <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>
* UN-Habitat: <http://unhabitat.org/>
* Universal Periodic Review: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>
* Special Rapporteur on Adequate Housing: <http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>

1. http://www.ilo.org/dyn/travail/docs/1952/GMB48490.pdf [↑](#footnote-ref-1)
2. http://www.accessgambia.com/information/local-government-lands.html [↑](#footnote-ref-2)
3. <http://www.statehouse.gm/vision2020/part3.htm> [↑](#footnote-ref-3)
4. http://indicators.ohchr.org/ [↑](#footnote-ref-4)
5. <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/GMSession7.aspx> [↑](#footnote-ref-5)
6. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/250/81/PDF/G1425081.pdf?OpenElement> [↑](#footnote-ref-6)
7. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/139/01/PDF/G1413901.pdf?OpenElement> [↑](#footnote-ref-7)
8. Concluding observations (2014) E/C.12/NPL/CO/3 [↑](#footnote-ref-8)
9. http://reliefweb.int/organization/unct-gambia [↑](#footnote-ref-9)
10. <http://countryoffice.unfpa.org/thegambia/drive/UNDAF_2012-2016-.pdf> [↑](#footnote-ref-10)
11. http://mirror.unhabitat.org/content.asp?cid=10996&catid=592&typeid=79 [↑](#footnote-ref-11)
12. <http://unhabitat.org/urban-initiatives/initiatives-programmes/participatory-slum-upgrading/> [↑](#footnote-ref-12)