



**Complaints-Handling in the Fisheries  
and Aquaculture Sector:**

**A Case Study of the  
National Human Rights  
Commission of The Gambia**

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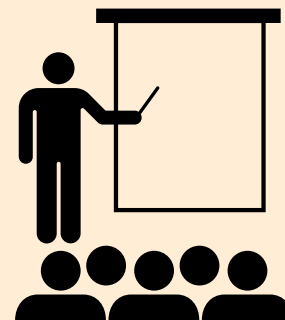
The Gambian National Human Rights Commission (NHRC), although a young NHRI established in 2019, has already been actively involved in business and human rights (BHR) work in the context of fisheries and aquaculture. For example, the NHRC has been handling complaints related to environmental degradation in the fisheries and aquaculture sector since the inception of its mandate. The Commission has anchored this work in The Gambia's existing commitments to human rights treaties at the international level, as well as national legislation. For example, in the NHRC's 2020 Draft Advisory Note on Environmental Rights<sup>2</sup> the NHRC has made reference to the 1969 African Convention on the Conservation of Nature and Natural Resources; the 1998 Bamako Convention on the Ban of the Import into Africa and the

<sup>2</sup> On file with the authors.

<sup>3</sup> See, e.g., African Commission on Human and Peoples' Rights (2009), 'Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) / Kenya', Case 276/03.

## Introduction

Control of Transboundary Movement and Management of Hazardous Waste Within Africa; Article 24 of the African Charter on Human and Peoples' Rights on the right to a general satisfactory environment favourable to development; the Children's Act 2005 of The Gambia prohibiting practices that hinder the welfare, dignity, normal growth and development, and life and health of a child; the Women's Act 2010 of The Gambia which, inter alia, protects women against all forms of discrimination and protects their right to health; the right to development as elaborated by the African Commission on Human and Peoples' Rights' jurisprudence<sup>3</sup>; and the Sustainable Development Goals (SDGs). The strategic plan, especially strategic objective 6, which seeks to advance human rights by addressing poverty, addresses the



*The Commission has anchored this work in The Gambia's existing commitments to human rights...*



*“According to the NHRC, it has also referred to the SDGs in its advisory note on environmental protection”*

‘recognition of the linkages between civil and political rights and economic, social, and cultural rights. One key objective under the strategic plan is to implement the United Nations Working Group’s Guidance on National Action Plans on BHR (NAPs)<sup>4</sup>. According to the NHRC, it has also referred to the SDGs in its advisory note on environmental protection<sup>5</sup> and uses the listed instruments in its complaints-handling procedure.

According to the NHRC’s interviewees, the Commission’s mandate is broad enough to include Sustainable Development Goal 14 (Life below water), the Africa Blue Economy Strategy<sup>6</sup> and further work on the fisheries and aquaculture sectors.



4 United Nations Working Group on Business and Human Rights (2014), 'Guidance on National Action Plans on Business and Human Rights'.

5 On file with the authors.

6 African Union (2019), 'Africa Blue Economy Strategy', [https://www.au-ibar.org/sites/default/files/2020-10/sd\\_20200313\\_africa\\_blue\\_economy\\_strategy\\_en.pdf](https://www.au-ibar.org/sites/default/files/2020-10/sd_20200313_africa_blue_economy_strategy_en.pdf).

# 2



## How and why the Commission started to work on fisheries and aquaculture

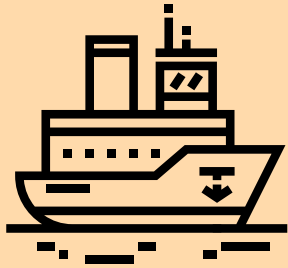


Since its establishment in 2019, the NHRC has received an increasing number of complaints<sup>7</sup> from local communities in the towns of Gunjur, Sanyang, Kartong and Faraba Banta linked to impacts on the environment, the fish population and the livelihoods of the community associated with the activities of fishmeal companies. Local communities reported that they could no longer fish to sustain themselves and their businesses because of the fishmeal companies' overfishing in the area. According to a community representative, pollution caused by the waste and odour produced by the fishmeal factories has dramatically affected the surrounding communities' lives and their livelihoods.

Moreover, representatives from the NHRC and the communities stated that many of the Chinese-owned companies operating in these areas bring their own workers from China, which can contribute to language barriers between the companies and local communities. According to civil society organisations (CSOs) and representatives from local communities interviewed for the case study, the quantity of fish being caught by the companies to benefit the European and Asian markets was much larger than what is sustainable for The Gambia and Gambians, who can no longer purchase the cheapest fish species or fish them themselves to sell on markets. In addition, the fishmeal companies' trucks have destroyed roads

<sup>7</sup> USAID (2021), '2021 Country Reports on Human Rights Practices: Gambia', <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/gambia/>

*“The NHRC focused on the management of waste produced by the fishmeal factories, as it noted that it had significantly impacted on the biodiversity in the area.”*



*...many businesses tend to have a limited understanding of existing business and human rights (BHR) frameworks.*

and gardens used by local communities, which has further affected the communities' ability to earn a living with their economic activities.

To respond to these complaints, the NHRC conducted investigations where it established that there was insufficient data available about the fish population in the fishing areas and a lack of documentation on the exact environmental, human rights and socio-economic impacts of the fishmeal factories on the local communities.<sup>8</sup> The NHRC focused on the management of waste produced by the fishmeal factories, as it noted that it had significantly impacted on the biodiversity in the area. To make this assessment, the NHRC relied on the

work conducted by local CSOs and fact-finding visits.

After conducting the investigation, the NHRC convened stakeholders, including the Ministry of Justice, the National Environmental Agency, representatives from the concerned companies, the local communities and CSOs to address the issues identified. A note containing recommendations for all parties, but especially the businesses, was adopted by the stakeholders through a dialogue process<sup>9</sup>. Another advisory note on environmental protection was adopted that addressed recommendations to the government on its duty to regulate the fisheries and aquaculture sectors.<sup>10</sup>

<sup>8</sup> National Human Rights Commission of The Gambia (2021), note 3.

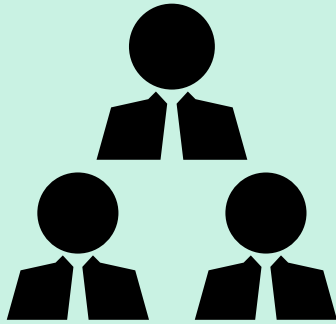
<sup>9</sup> On file with the authors.

<sup>10</sup> On file with the authors.

# 3



## Stakeholders involved



*NHRC also consulted experts from the Geology Department and the National Environmental Agency to better understand the risks for the coastal zones*



During the fact-finding missions, community leaders and members were actively engaged and involved to report on the impacts of the fishmeal factories' activities on their daily lives and the environment. As rights-holders, they were able to provide their insights on the ways industrial fishing was impacting traditional fishing activities, and related social and economic impacts. As noted by one CSO representative interviewed for this case study, the impact of the companies on the coastline went beyond economic interests: they reported that the tensions, loss of livelihoods and destruction of the coastal areas have severely damaged the social fabric of a previously tight-knit community. The Gambian Chamber of Commerce was

also present during the roundtables.

The NHRC also consulted experts from the Geology Department and the National Environmental Agency to better understand the risks for the coastal zones, as the National Environmental Agency is responsible for the environmental impact assessments, which are the basis for obtaining licences for businesses to operate. Representatives from academia also participated in the stakeholder dialogues and gave a scientific presentation about the environmental impacts of industrial fishing around the area.

# 4



According to the NHRC, a significant outcome of applying their convening role in this way through their complaints-handling mandate has been the opportunity provided for all stakeholders to express their needs, concerns, issues faced and recommendations to address these issues.

The Commission has been able to raise awareness among local communities and fishmeal factories on the state's duty to protect the environment. Furthermore, the NHRC has used international frameworks to underline the nexus between the protection of the environment and human rights, and to have these considerations taken into account by state authorities when regulating business conduct. Other stakeholders' awareness of the ongoing

## Change created by the intervention

degradation of The Gambia's oceans and coastlines was raised. According to the NHRC, local communities are now more knowledgeable about the available remedy avenues.

Additionally, the NHRC has set a successful precedent of greater interactions, partnerships and collaborations among stakeholders in the fisheries and aquaculture sectors.



*According to the NHRC, local communities are now more knowledgeable about the available remedy avenues*





# 5



## Human rights-based approach and gender lens



Throughout the handling of complaints in this sector, the NHRC has endeavoured to apply a human rights-based approach by fostering inclusive and effective participation of all rights-holders. It also consistently aimed to ensure that The Gambia's international commitments to economic, social and cultural rights would be honoured in the mediation processes.

Gender has also been considered by the NHRC while handling these complaints. The Commission established, through the investigation, that women were disproportionately affected by the activities of the fishmeal factories. Firstly, they benefitted to a lesser extent from the job opportunities created by these companies. Secondly, the decline in the sales of fish has negatively impacted women disproportionately. The sale of

fish is an important economic activity for women: when fish stocks started decreasing, women were no longer able to sell as many fish as they used to and have henceforth reported diminished revenues. On the other hand, local communities can no longer afford to buy even the cheapest species of fish, which makes the women's task of feeding members of the household more difficult. Furthermore, in addition to the pollution and the eventual environmental degradation, the waste produced by fishmeal factories has reportedly destroyed nearby gardens and areas that women tended to for their livelihood.

# 6



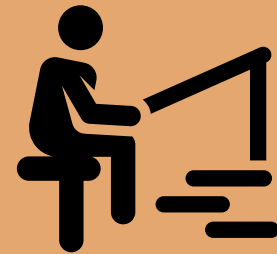
According to feedback the NHRC received, while the convening was perceived by stakeholders, especially rights-holders, as a good first step, it has unfortunately not put an end to all conflicts related to the fishmeal factories' activities. According to a CSO representative, the fishmeal factories are still implementing their activities without much regard to environmental degradation and the decreasing fish population in the area.

The slow rate of implementation of the recommendations adopted at the end of the stakeholder dialogue has also been flagged by the NHRC as a challenge to its operations. The NHRC relies a lot on the willingness of government and local authorities to ensure that the recommendations are

## Resources, opportunities and challenges

effectively implemented. In that regard, the NHRC's representatives noted that the absence of strong human rights legislation and constitutional protection was an obstacle.

Another challenge was directly linked to the opposing positions of the broad scope of stakeholders involved in the complaints-handling process. The NHRC reported that, while some community members were completely against the fishmeal factories' presence, others, including local authorities, argued that the economic perks brought by the companies were too important to remove them. The companies have indeed provided some jobs in communities plagued with high rates of unemployment.



*... the NHRC's representatives noted that the absence of strong human rights legislation and constitutional protection was an obstacle.*



*“The NHRC further reported lack of sufficient human resources and capacity to handle all complaints and engaging in the fisheries sector without the sufficient technical expertise...”*



The lack of detailed and evidence-based data and knowledge about the quantity of fish available in fishing zones, has also been brought up as a challenge, and presented the need to develop a baseline on the protection of the coastal areas. According to the NHRC, transparency and accountability are still widely lacking in the fisheries sector; it is indeed reported that company owners rarely answer questions from journalists or allow for investigations to be conducted. This was echoed by one of the CSO representatives and a community-based journalist.

The NHRC further reported lack of sufficient human resources and

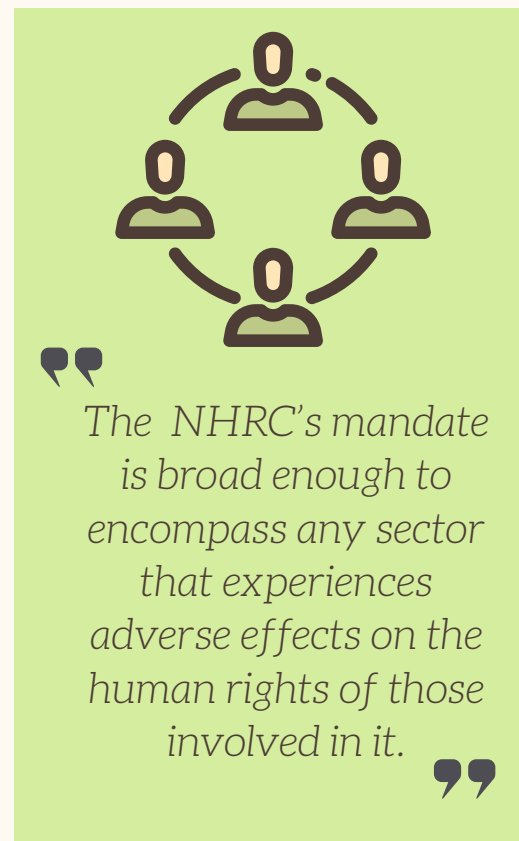
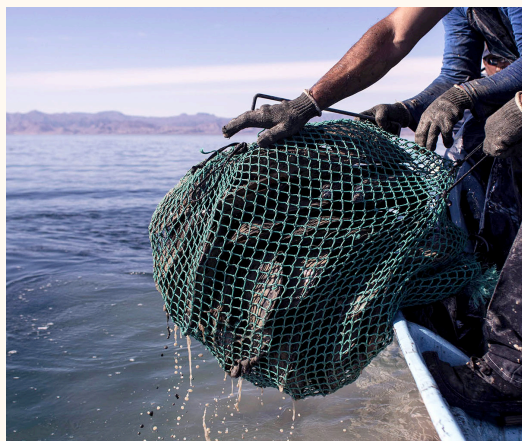
capacity to handle all complaints and engaging in the fisheries sector without the sufficient technical expertise. Therefore, adequate financial and technical resources remain a key point in ensuring that the NHRC can fully realise its mandate, to advocate for the adoption of policies and regulatory frameworks for the sector, which are still missing in The Gambia. Nevertheless, the NHRC retains opportunities for further engagement on the fisheries sector from this experience. As mentioned, the NHRC’s mandate is broad enough to encompass any sector that experiences adverse effects on the human rights of those involved in it. The NHRC has therefore expressed confidence that it will be able to continue its work and strengthen its mandate on protecting

*The NHRC has therefore expressed confidence that it will be able to continue its work and strengthen its mandate on protecting the human rights.*

the human rights of all who have been negatively affected by the manmade changes to the ecosystems of The Gambian coast (e.g. through pollution and overfishing) and to ensure the realisation of the respect for human rights by all actors. According to the interviewed Commissioners, a unique selling point is that the NHRC's Commissioners are known and trusted in The Gambia, which has previously allowed and still allows the NHRC to conduct its operations with confidence in its relations to other stakeholders in the country.

Furthermore, the NHRC's roundtable report underlined the need to develop a National Action Plan on BHR<sup>11</sup>, which in turn could foster interest in creating

a specific state policy for the fisheries sector, possibly also taking into account measures for the specific realisation of SDG 14 and the contextualisation of the Africa Regional Blue Economy in the Gambia.

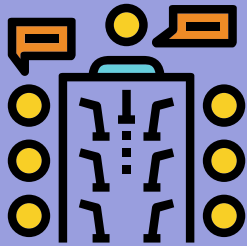


<sup>11</sup> NAPs are policy documents in which a government articulates priorities and actions that it will adopt to support the implementation of international, regional, or national obligations and commitments with regard to a given policy area or topic. The UN Working Group on human rights and transnational corporations and other business enterprises noted in its 2016 Guidance on business and human rights NAPs that they can be an important means to promote the implementation of the UNGPs. See Globalnaps, 'About', <https://globalnaps.org/about/>.

# 7



## 7. Lessons learnt and key takeaways for NHRIs in the region



*In relation to the way the NHRC has handled complaints, it has found that adopting a human rights-based approach to its complaints-handling processes has facilitated mediation by involving the concerned companies and factories in broader stakeholder dialogue initiatives.*

According to the NHRC's representatives, CSOs and community members interviewed for this case study, several lessons can be drawn from this experience.

The first lesson drawn from this intervention is the importance of an NHRI that has a broad mandate. Indeed, while the NHRC's strategy does not explicitly encompass work on sustainable oceans, it has de facto broadened its initiatives to include activities on the coast and marine life using its complaints-handling mechanism. The NHRC's representatives explained that thanks to this mandate, the Commissioners did not have to

warn the fishmeal factories in advance before going to their location and investigating alleged environmental and human rights harms.

In relation to the way the NHRC has handled complaints, it has found that adopting a human rights-based approach to its complaints-handling processes has facilitated mediation by involving the concerned companies and factories in broader stakeholder dialogue initiatives.

Furthermore, convening stakeholders at roundtables has proven to be an effective way to handle complaints while nurturing a proactive approach

to protecting the environment in the fisheries and aquaculture sectors. The advisory note produced by the NHRC on environmental protection as an outcome to these dialogues, demonstrates a willingness to take the discussion to the policy level.<sup>12</sup> The roundtable also underlined the importance of conducting a National Baseline Assessment (NBA) to clarify the state of the environment and human rights in The Gambia. As noted by the interviewees, there have been discussions to further contextualise the United Nations Guiding Principles on BHR<sup>13</sup> in The Gambia: the NBA would be a solid first step to advocate for the

development and adoption of a NAP by the government.

Lastly, the NHRC has learnt the importance of multi-stakeholder dialogues and is in the process of organising yearly meetings on salient human rights issues, including the topic of sustainable oceans.

*“...convening stakeholders at roundtables has proven to be an effective way to handle complaints while nurturing a proactive approach to protecting the environment in the fisheries and aquaculture sectors...”*



<sup>13</sup> Human Rights Council (2011), 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework', A/HRC/17/31.



## Complaints-Handling in the Fisheries and Aquaculture Sector:

*A Case Study of the National Human Rights Commission of The Gambia*

*This case study focuses on The Gambian National Human Rights Commission's complaints-handling in the fisheries and aquaculture sector as an example of how national human rights institutions (NHRIs) can intervene to protect human rights in the area of sustainable oceans.*

The case study is part of a short series of case studies focusing on the engagement of national human rights institutions (NHRIs) in the African region on the topics of business and human rights

## About this case study:

and sustainable oceans. These short case studies have been conducted as a follow-up to the Network of African National Human Rights Institutions (NANHRI) member survey on Business and Human Rights & Sustainable Oceans<sup>1</sup>, with the purpose of delving deeper into select NHRI activities reported on in the member survey, with a view to sharing learning among NANHRI members and stimulating dialogue among NHRIs on how they can apply their Paris Principles mandate in the areas of business and human rights and sustainable oceans. The survey was conducted as part of a collaboration between NANHRI and the Danish Institute for Human Rights (DIHR), made possible thanks to the support from the Swedish International Development Cooperation Agency (Sida).

This case study is based on three interviews with representatives from The Gambia's National Human Rights Commission, civil society organisations (CSOs) and local communities who participated in virtual interviews which took place in the month of March 2022. The interviews followed a standardised interview guide and included tailored follow-up questions. The content of this case study therefore reflects assessments made by the interviewees and does not necessarily represent the views of NANHRI or DIHR. The case study has been developed by Mercy Obonyo from NANHRI and Mathilde Dicalou from DIHR, with support from staff members from both institutions, and review by colleagues from the National Human Rights Commission. We thank the interviewees for sharing their work and insights to develop this case study.

<sup>1</sup> NANHRI (2021), 'Member Survey on Business and Human Rights & Sustainable Oceans', <https://www.nanhri.org/wp-content/uploads/2022/02/NANHRI-Member-Survey-on-Business-and-Human-Rights-Sustainable-Oceans.pdf>



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