

Universal Periodic Review of The Gambia
SUBMISSION ON BEHALF OF THE CIVIL SOCIETY ASSOCIATIONS OF THE GAMBIA AND THE
COALITION FOR CHANGE GAMBIA
20TH SESSION OF THE UPR WORKING GROUP, OCTOBER-NOVEMBER 2014

1. FOLLOW UP TO THE PREVIOUS REVIEW

1.1 The joint submission by the Coalition for Change The Gambia (CCG) and the Civil Society Associations of The Gambia (CSAG) will focus on the following areas contained in the report of the Working Group on the Universal Periodic Review (A/HRC/14/6). These are: Extra Judicial Executions (EJEs), Impunity, Unlawful arrest/detention (including of Human Rights Defenders - HRDs) and Prison conditions, Freedom of Expression/Speech/Press and Abolish Death Penalty/confirm commitment to moratorium.

1.2 Extra Judicial Executions (EJE's): Reference to recommendations **97.22** and **97.26**ⁱ there is a data blank in this area, recent confessions from some self described BLACK/BLACK or JUGGLERSⁱⁱ who have escaped from The Gambia have provided some insights into this phenomenon confirming suspicions of extrajudicial executions of persons who had disappeared with no satisfactory explanation given by the state authorities.

1.3 Impunity: There has been no progress on recommendations **97.22 and 97.34**ⁱⁱⁱ and recommendation **99. 47.**^{iv} All calls for independent investigations have been ignored.

1.3.1 The lack of progress has prompted the family the late **Deyda Hydara**, journalist and proprietor off the Point Newspaper, supported by the International Federation of Journalists - Africa to seek redress from the ECOWAS Community Court of Justice. Hearing started on February 14 2014 in Lomé, Togo. The case is ongoing^v.

1.3.2 Conflicting statements from the government on the whereabouts of Manneh such as denial of any knowledge of his whereabouts by Minister of Justice, Marie Saine Firdaus;^{vi} followed by a refutation by the Inspector General of Police, Yankuba Sonko's, that he had received information from the international police organisation (Interpol) suggesting that the journalist is in the US.;^{vii} Then President Jammeh tells journalists in March 2011 that " the government has nothing to do with the death of Chief Manneh,"^{viii} and in October 2011 the Minister of Justice, Edward Gomez tells journalists that "Ebrima Chief Manneh is alive"^{ix} have scaled up demands from his family and interested parties worldwide calling on the government to produce Manneh. The ECOWAS Court's ruling to produce Manneh has also been ignored.

1.4 Unlawful arrests/detentions including of HRDs: No progress has been made on recommendations 97. 23-24.^{xxi} The acknowledgement by the government that it had "challenges in this regard"^{xxii} implies a shirking of responsibility on the part of the primary duty bearer whose duty it is to guarantee the personal security of all Gambians. The NIA is a government institution; its agents are not above the law and should be held accountable for their misdeeds.

1.5 Prison Conditions: With respect to recommendations **97.25-28**^{xiii} there is no improvement in prison conditions in The Gambia. Mile 2 Central Prisons and other detention centres are deplorable, inhumane and degrading^{xiv}. Independent observers are not allowed.

1.6. Freedom of Expression (FoE)/Speech/Press: The government's rejection of Recommendations **100: 15-30**^{xv} is reflective of its continued hostility to the private and independent media. Journalists are harassed, intimidated, arbitrarily arrested and detained resulting in a large number of journalists fleeing the country or into self censorship. With respect to recommendation **100.25**^{xvi}, the Gambia Press Union (GPU) Six were granted amnesty by the government on September 3, 2009, five of them (**Faal, Saine, Sarr, Suwaneh and Touray**) are carrying out their activities in the country, **Sarata Jabbi**

left the country but **Ndey Tapha Sosseh** is still on the wanted list of the government and lives in voluntary self exile in Mali.

1.5 Abolish Death Penalty/Confirm Commitment to Moratorium: The executions of nine death row inmates (eight men and one woman) on August 24, 2012 show a total disregard to recommendations **99.32-35**^{xvii} and a lack of commitment to the moratorium on the death penalty which had been in place since 1995 and belied the statement made by the Gambian Head of Delegation to the UPR (2010) that the government “had no intention of using the death penalty, now or anytime soon.” Barely two years after this statement the executions were carried out without using due process as neither the executed prisoners nor their families were told of the executions in advance. No executions had been carried out in the country since 1985 and The Gambia was previously considered abolitionist in practice. This status no longer holds for even though the executions stopped in face of public and international condemnation the threat still hangs like a Damocles sword over the rest of the inmates on death row.

2. THE NATIONAL HUMAN RIGHTS FRAMEWORK

2.1 The 1997 Constitution of The Gambia makes provisions for the fundamental human rights and freedoms in Chapter IV, Articles 17-39. Section 17(1) guarantees that these rights “shall be respected and upheld by all organs of the Executive and its agencies, the Legislature and, where applicable to them, by all natural and legal persons in The Gambia, and shall be enforceable by the Courts in accordance with this Constitution”. Enforcement of the protective provisions is also provided under this section^{xviii}.

2.2 The legal system of The Gambia is based on a parallel combination of English common law, Islamic law, and customary law. Section 120 of the Constitution outlines the authority of the Judiciary. The Judiciary is headed by the Chief Justice and is comprised of the superior courts, the inferior courts and other tribunals as may be established by an Act of the National Assembly.

2.3 Established under Ombudsman’s Act 1997, the Ombudsman investigates complaints of injustice, corruption, abuse of power, maladministration and unfair treatment of any person by a public officer in the exercise of their public duties and complaints about press freedom and detention centres. Currently there is no independent National Human Rights Entity in the country.

2.4 Sections 207 and 208 provide for and guarantee the full and inclusive participation of the independent media to “uphold the principles, provisions and objectives of This Constitution, and the responsibility and accountability of the Government to the people of The Gambia”.

2.4 An Alternative Dispute Resolution (ADR) was set up in 2005 by an Act of Parliament. A Secretariat was established under the aegis of the Ministry of Justice but it has not been effective.

2.5 The Gambia has ratified or acceded to several regional human rights instruments, including the African Charter on Human and Peoples’ Rights, which guarantees the rights to freedom of expression and association in Articles 9 and 10 and its Protocol on the Establishment of an African Court on Human and Peoples’ Rights.

2.6 The Gambia is also a party to several international treaties including the International Covenant on Civil and Political Rights (ICCPR)^{xix} and the International Covenant on Economic, Social and Cultural Rights (ICESCR), the four Geneva Conventions and its Additional Protocols. The Gambia ratified the Rome Statute of the International Criminal Court (ICC). It is yet to sign the Agreement on Privileges and Immunities of the ICC.

2.7 The Gambia has not ratified the African Charter on Democracy, Elections and Governance, the second Optional Protocol to the ICCPR, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.

2.8 Invitations were not extended to the Special Procedures of the United Nations Human Rights Council and requests for visits by the Special Rapporteurs on Torture and Extra Judicial, Summary or Arbitrary Executions remain pending. The AU Special Rapporteur on Prisons and Conditions of Detention in Africa and Freedom of Expression in Africa has also not been invited by The Gambia.

2.9 Constitutional provisions notwithstanding, there are gross human rights violations due to the weaknesses of duty bearers and institutions. Everything revolves around President Jammeh and there is no distinction between the three arms of government. There is interference with the judiciary and the National Assembly which consists mostly of members of the ruling party passes Amendments to the Constitution which takes away the stated rights.

2.10 Rights based Civil Society Organisations (CSOs) in the country are seriously challenged in carrying out their mandates. CSOs are seen as bodies to compliment government's development programme and not as independent entities^{xx}. The recent transfer of the Non Governmental Affairs Agency (NGOAA) from the Ministry of Local Government and Lands to the President's Office is perceived to be a control mechanism of the activities of CSOs. There is a high level of interference in CSO activities and those regarded as a threat are harassed and intimidated.

2.11 Gross human rights violations and the deteriorating human rights situation in The Gambia compelled CSOs attending the Forum on the Participation of NGOs to the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights to call for the removal of the Headquarters of the Commission from Banjul^{xxi}. The Commission itself had previously requested the African Union (AU) to consider relocating the Commission's seat if the human rights situation in The Gambia did not improve^{xxii}.

3. THE HUMAN RIGHTS SITUATION ON THE GROUND

3.1 EJE's: Evidence on EJE is scanty as there are administrative hurdles to any attempts to carry out independent or private investigations into EJE's and disappeared or missing persons. Recently however, some information has come through that has shed light on many cases of people that were feared to be extra judicially executed.

3.3.1 In 2012 a self acknowledged "escapee Juggler", in separate interviews with Ndey Tapha Sosseh and the online media attested to the existence of President Jammeh's hit teams known as the **Jugglers** and **Black Blacks**. He claimed that during the period 2004 to 2010 as a driver to a juggler team he had in diverse places in the Kombos and Greater Banjul Area witnessed the killings of several people including 44 Ghanaians in Ghana Town and disposal of some of their bodies in a well in Kanilai; Deyda Hydara (2004); Chief Ebrima Manneh (2006); Kanyiba Kanyi, UDP member (2006); Daba Marenah, former head of the NIA and lieutenant (Lt.) Ebou Lowe, 2nd Lt. Alieu Ceesay, Warrant Officer, Alpha Bah and Staff Sergeant Manlafi Corr (2006); Momodou Lamin Nyassi, Ndongo Mboob and Buba Sanyang (2006), and Marcia Jammeh, Haruna Jammeh and Jisacha Kujabi, (2005).

3.3.2. Using unconventional tools such as hammers, machetes, ropes, nails, pliers, needles, syringes, and vinegar to main and kill their victims they record all their activities for President Jammeh^{xxiii}.

3.3.3 Other escapee Jugglers have corroborated his story. Fearful of reprisals against their families and for their own lives as they have also witnessed the extermination of their former leaders –

Tumbul Taamba, Musa Jammeh, Kawsu Camara alias Bombardier – the ex-jugglers are determined to break the silence even though they had performed rituals designed to keep them quiet.

3.3.4 **Sergeant Elo Jallow**, former bodyguard of the first lady Zeinab Suma Jammeh was lured to attend a special midnight meeting by a superior officer. The next morning, January 6, 2011 he was found dead in his badly damaged vehicle at the Sting Corner just outside Banjul. No investigation has been carried out into the circumstances surrounding his death.

3.3.5 **Wuyeh** and **Enor Colley** from Karunorr, in Foni Kansala district were killed on the Gambian border on 7 August 2012. Abducted in plain sight of the villagers by armed, masked men, dressed in military uniforms onboard two military jeeps without number plates. They were whisked off and shot. Shortly after the shooting the villagers went to investigate and found the bullet ridden bodies of the two men. They left the corpses in the bush for fear of reprisals^{xxiv}.

3.2 Impunity: The impunity surrounding the examples given below is symptomatic of government's lack of accountability to its people and to a total lack of respect for commitments made to regional and international protocols and conventions. These are:

3.2.1 The total disregard for the ECOWAS court's decisions ordering the government of The Gambia:

- i. In 2008 to release and compensate US\$100,000, to missing journalist "Chief" Ebrima Manneh, who was arrested in July 2006 by NIA agents^{xxv}. He disappeared while in custody though Gambian authorities denied holding Manneh. Confessions from state engaged hit men indicate that Chief Ebrima Manneh was killed in custody.
- ii. In 2012 to pay damages of US\$20000 to Musa Saidu Khan^{xxvi}, former editor-in-chief of the banned private biweekly *The Independent*. Saidu Khan was detained for 22 days without charge and tortured while in detention. He now lives in exile in the United States.

3.2.2 Non-compliance with the African Commission's Resolution No. ACHPR/Res. 134(XXXXIV) 2008, adopted during its 44th Ordinary Session to investigate the disappearance and/or killing of prominent journalists Deyda Hydara and Ebrima Chief Manneh".

3.2.3 The non-punishment for state agents who torture, kill, harass or intimidate citizens such as **Cherno Alieu Suwareh** and **Alpha Omar Jobe**. Both died shortly after two separate incidents with the National Drug Enforcement Agency (NDEA) in 2011. **Suwareh** knocked his head when resisting arrest from five officers of the NDEA who reportedly raided his compound and found cannabis. He was rushed to the Royal Victoria Teaching Hospital in Banjul where he died 11 days later. **Jobe** was arrested on suspicion of cannabis trafficking. According to *The Daily News*, he was subsequently tortured and released. He died six days later. In both cases the officers were acquitted of murder charges proffered against them by the State.

3.3 Unlawful Arrest/Detention and Enforced Disappearances (Including Of HRDs): There are gross violations of Article 19 of the Constitution 'Protection of the right to liberty.' Arbitrary arrests without a warrant even though this is a requirement by law are common, as well as detentions exceeding the 72 hour legal limit. Some arrested persons are held incommunicado for long periods and then released without any charges. Political detainees and persons arrested on serious crimes are denied bail and kept in custody throughout the period of their trial. Bail conditions are set at unreasonably high amounts, out of the reach of many Gambians; even when the bail conditions are met and the accused persons released they are promptly re-arrested and detained. It is not uncommon for persons to jump bail putting at risk the persons who bailed them. Remanded persons are not allowed prompt access to a lawyer or family members. Some examples are given below.

3.3.1. Human Rights Defenders

- i. **Dr Amadou Scattered Janneh**, former minister of Information and Communication and founder member of the CCG sentenced to life imprisonment with hard labour after being convicted for treason in January 17 2012. His co-accused **Modou Keita**, **Ebrima Jallow**, and **Michael Ucheh Thomas** were each sentenced to three years with hard labour for sedition. The four were arrested in June 2011 for being in possession of T shirts with the slogan «End to Dictatorship Now." Dr. Janneh was kept in solitary confinement under maximum security from June 6 to September 1, 2011 and was allowed out of the cell for only ten minutes per day. His life sentence was commuted in September 2012 on presidential pardon^{xxvii}. Michael Ucheh died in prison. Both Keita and Jallow have been released.
- ii. **Ndey Tapha Sosseh**, **Matthew Jallow** and **Famara Demba** of the CCG who were also charged for treason could not be tried as they were outside the jurisdiction of The Gambia.
- iii. On 12 November 2012, two leading campaigners against Female Genital Mutilation/Cutting (FGM/C) in The Gambia were acquitted and discharged by the Magistrate's Court in Banjul in a protracted criminal trial involving, **Dr Isatou Touray**, Executive Director, GAMCOTRAP and **Amie Bojang Sissoho**, Programme Coordinator. The two were charged in 2011 with economic crimes for allegedly mismanaging a 30,000 euro grant by the Spanish NGO Yolocamba Solidaridad. They were denied bail, and remanded in custody for eight days in the Mile 2 Prison.

3.3.2 Religious leaders:

- i. **Imam Baba Leigh** a vocal critic of the bad policies and practices of the government who denounced the Mile 2 Nine executions was arrested by the NIA In December 2012, and held incommunicado for 5 months. He was tortured in detention and released without charge on May 10 2013. He left the country soon after.
- ii. **Imam Bakawsu Fofana** was harassed and intimidated for several months before he was arrested and held incommunicado for nine days in May 2012. He fled the country on August 14 2012 following death threats and a tip-off that he was to be re-arrested. He was tortured while in detention and after his release he had to report to the NIA on a weekly basis.
- iii. **Alhaji Ismaila Manjang**, a prominent Islamic scholar and imam was arrested in 2011 by security forces and held incommunicado for four days by the NIA. The arrest followed a speech he made at his Islamic institute condemning idolatrous practices such as visits to shrines to seek blessings, (rituals that the President engages in).

3.3.3 The Opposition:

The United Democratic Party (UDP), the main opposition party suffers inordinately from the repressive activities of the state. Members targeted for harassment and intimidation because of their political affiliation include:

- i. **Ebrima Solo Sandeng Bojang** UDP Youth Secretary was arrested and detained along with 8 others at the NIA Headquarters in Banjul on December 9 2013 charged with 'applying for a permit to stage a social gathering on November 27 when in fact he was organizing a political rally'. Charges against the others were dropped. Bojang was held in remand and arraigned at the Brikama Magistrate's Court on December 31 2013. He was granted bail in the sum of one million Dalasi about US\$26250^{xxviii} with two Gambian sureties, who possess a landed property within the Greater Banjul Area and ordered to surrender to the court. The case is ongoing.
- ii. **Lasana Jobarteh** was arrested In December 2013, and charged with broadcasting without a license contrary to the Information and Communication Act 2009. He is accused of giving information abroad via Skype while attending UDP rallies in diverse places on December 14 and 15 2013. He was arraigned before the Bundung Magistrate's Court and granted bail in the sum of D250,000^{xxix} (US\$6394). The case is ongoing.
- iii. **Amadou Sanneh, UDP treasurer and two others - Malang Fatty**, and **Alhagie Sambou Fatty** were on December 18 2013, sentenced by the High Court to a jail term of 5 years. They were arrested

in September 2011 along with commissioner of oaths, **Bakary Baldeh**, on allegations of tarnishing the image of the country. On October 3, looking weak and tired, the four persons confessed to the allegations on the state-owned GRTS. Amnesty International called on the government to drop the charges against them as “any evidence obtained through torture must not be admitted in court.” On October 23 the three men were charged with “conspiracy, sedition, possession of seditious publication, and false swearing.” Bakary Baldeh was not charged. **Fatou Camara** a former State House Director of Press and Public Relations who was detained at the NIA at the same time, revealed in a Facebook posting and later in an interview with Freedom Online Newspaper that Sanneh and his co-accused were severely tortured. Fatou was arrested and detained for twenty five days and released on bail on the October 10 2013.

- iv. Prior to his disappearance for a week without trace in August 2013, **Dodou Kassa Jatta** had been arrested and detained several times. His final arrest in Banjul without his family and friends knowing about his whereabouts prompted him to leave the country after his release.

3.3.4 Lawyers:

- i. **Amie Bensouda**, a prominent female lawyer and former president of the Gambia Bar Association was arrested and detained by the NIA on December 3 2012 and released without charge 2 days after. Her arrest is believed to emanate from a complaint made by Justice Joseph Wowo that documents that Bensouda requested from the court on ‘previous court judgments within the last five years on land matters’ were prejudicial.
- ii. **Justice Joseph Wowo**, President of The Gambia Court of Appeal was arrested on January 17 2013 and charged with “giving false information” to a public officer. He was denied bail and remanded at the maximum security wing of the Mile 2 central prison. On January 21 2013 he was granted bail^{xxx}. The case was withdrawn and he was compelled to leave the country. Shortly after he was appointed Chief Justice and returned to the Gambia in June 2013. In an unrelated case he was charged alongside former Justice Minister Lamin Jobarteh and sentenced on January 9 2014 to a two year prison sentence and Jobarteh to one year in prison.

3.3.5 Government Officials

- i. **Dr. Njogu Bah**, former secretary general and minister of presidential affairs; **Lamin Jobarteh**, Minister of Justice and Attorney General and **Pa Harry Jammeh**, Solicitor General are all serving 2 year prison sentences for “abuse of office, conspiracy to defeat justice, destroying evidence, official corruption, and neglect of official duty.” They were imprisoned on December 19 2013 but had been remanded in custody without bail.
- ii. **Mamburay Njie** former minister of Foreign Affairs was arrested and detained for several days without charge in October 2012. In December 2012 when he reported to the police as required under his bail conditions, he was taken to court and charged with economic crimes and abuse of office. He was remanded until February 4 when he was granted bail in the sum of 15 million Dalasi (\$428,571). Njie was recently arrested and held for two weeks. He was released on March 12 2014.
- iii. Enforced disappearances without trace include **Kemo Ceesay**, Deputy Director Ministry of Energy last seen when he was arrested by the NIA in December 2013 and **Mr Momodou Sowe**, an ex-Protocol Officer at the state house in Banjul, went missing on the 3rd December, 2012, when he set out to work in Banjul.

3.3.6 Journalists

- i. Since March 12, 2013 **Alagie Jobe**, has been held at the maximum security wing at Mile 2 Central Prison. The former deputy editor-in-chief of the Daily Observer Newspaper is charged with six counts of making an act with seditious intention, seditious publication, possession of seditious publication, giving false information to a public servant and reckless and negligent act in relation to a story about an alleged fugitive soldier who had refused to take orders to carry out executions. His co-accused **Mbye Bittaye** is charged with ‘making preparation to do a seditious

act'. Both were arrested on February 7, 2013. The case is ongoing in the Special Criminal Court and both of them have denied the charges. Jobe claims that he has been tortured but this was not accepted by the Judge.

- ii. **Musa Sheriff**, editor of the Voice Newspaper and reporter **Sainey M.K. Marenah** were arrested on January 13 2014 in relation to an article in *The Voice* on December 9 2013 on the defection of youth supporters of the ruling APRC party to the opposition UDP. They were released on bail on January 16 2014 after pleading not guilty to charges of "publication of false news with intent to cause fear and alarm to the public" and "conspiracy to commit felony". The trial is still ongoing.
- iii. On September 6 2012, having applied for a permit for a peaceful demonstration against the executions of the nine death row inmates, journalists **Abubacarr Saidykhan** and **Baboucarr Ceesay**, of GPU were arrested and charged with "incitement of violence and conspiracy to commit a felony", Ceesay was also charged with sedition. They were released on September 10. The charges were eventually dropped. The two journalists began receiving death threats and Saidykhan moved to Senegal for his personal safety. His brother **Ousman Saidykhan**, was arrested on December 8 and released on December 10 to answer questions on his brother's whereabouts. He still reports daily.

3.3.7 Individuals

In 2013 **Saul Ndow**, **Mahawa Cham** (former National Assembly Member)^{xxxix}, **Ndure Cham** (former Army Chief and alleged leader of the 2006 foiled Coup), **Alhaji Ceesay** and **Ebou Jobe**^{xxxix} two Gambians with American nationality went missing without trace. It is believed that they were arrested and detained by the security agents. All attempts by their families and HRDs to have information on their whereabouts have proved futile. They are feared dead.

3.4 Prison Conditions: Situated on the main road to the city the inhumanity of Mile 2 Prisons is a shame that hides in plain sight the deplorable conditions behind the prison walls. President Jammeh sarcastically calls it his 'five star hotel' when threatening public servants with imprisonment. Dr. Amadou Scattred Janneh a former prisoner of conscience In his book "Standing Up to Injustice" gives a firsthand narrative of the deplorable conditions of Gambian prisons.

3.4.1 Cells are overcrowded, damp, extremely hot and poorly ventilated. In 2013 there were approximately 1,000 inmates in the three prisons, more than double the intended capacity^{xxxix}. Inmates sleep on the floor, lighting and sanitation are poor. Cells in remand and the maximum security wing also serve as toilet facilities. Some of the other detention centres particularly the notorious Bamba Dinka is vermin and mosquito infested.

3.4.2 Medical facilities are poor, and inmates are referred to health facilities outside the prisons for medical care. There is high risk of contracting non-communicable diseases from poor diets and communicable diseases such as tuberculosis. **Micheal Ucheh Thomas** died of tuberculosis for which he received no treatment until it was too late.

3.4.3 The food is inadequate, of poor quality and often infested with unwanted particles. Corrupt practices of some prison officers have affected prisoner rations. Food from outside is allowed for detainees before conviction but this privilege stops after they are sentenced. Exercise is limited and inmates on death row are only allowed 10 minutes a day.

3.4.4 Violence against prisoners is high. In October 2012 CSAG published a press release denouncing the severe beating of a prisoner named **Amadou Faal** alias **Njagga** by prison officials resulting in the loss of his eye.

3.4.5 Individuals languishing in prison without ever being charged or brought to trial include: **M.B Sarr** detained since March 10, 2010; **Abdourahaman Baldeh**, a Senegalese national, detained since

July 1997; **Alfusainey Jammeh**, a native of Kanilai village detained from 2006. Jammeh and Baldeh were released in July 2012 without charge. Prisoners with appeal cases are subjected to long waits and some have had their cases struck out for failure to appear in court. Due to a poor information management system some detainees are not informed about court appointments.

3.4.6 Prison visits are generally allowed but political prisoners and remand detainees are denied access to lawyers and family members. Prisoners and detainees can transmit complaints to judicial authorities through their lawyer or relatives. A Prisons Visiting Committee, comprising representatives of several government agencies, is supposedly responsible for monitoring and investigating complaints. NGOs and diplomatic missions are allowed to hand over gifts, but are not allowed to monitor conditions. Not extending invitations to the Special Rapporteurs of the UN and the AU and the International Committee of the Red Cross (ICRC) indicates a lack of openness on the part of the authorities.

3.5 Freedom of Expression/Speech/Press: Several draconian laws are used to repress freedom of expression and a free press. The way charges of “sedition”, “libel” and “false publication” are proffered against journalists and the banality with which these terms are used allows for abuse on ‘orders from above’. Many journalists have fled the country out of fear for their personal safety. Journalists from independent news outlets are routinely denied access to public information and to cover official events at certain venues by government and security agents.

3.5.1 Legislation

In July 2013, amendments were passed on the 2009 Information and Communications Act to allow for penalties against those who spread “false news against the government or public officials” online. The law imposes a jail term of 15 years and or a fine of three million dalasi (\$85,714). The intention of the amendments is the deterrent “punishment” of those engaged in “treacherous campaigns” and “unpatriotic behavior.”

3.5.2 Journalists in exile

Journalists who have fled the country for fear of their personal security include; **Fatou Camara** mentioned above, **Fatou Touray**, former entertainment show presenter at GRTS; **Pa Malick Faye**, former Managing Director, *Daily Observer* newspaper; **Abubacarr Saidykhan**; **Namana Keita**, former sports editor, *Daily Observer*; **Fabakary Ceesay**, former reporter, *Foroyaa* newspaper; **Kemo Cham**, former editor, *Daily Observer* **Buya Jammeh**, co-opted executive member of the GPU, **Abdoulie John**, reporter *JollofNews* and **Edward Carayol**, former reporter Today Newspaper.

3.5.3 Closure of media houses:

In September 2012 the **Standard** and the **Daily Mail Newspapers** were closed by the government. CSAG and the GPU-USA strongly condemned the move by government. On December 31 2013, President Jammeh ordered the re-opening of the *Standard* and **Teranga FM radio** the highly popular station which was closed on August 14 2012^{xxxiv}. **The Daily News** remains closed.

3.6 Abolish Death Penalty/Confirm Commitment To Moratorium

3.6.1 On the August 28, 2012 a government press release read over GRTS confirmed the executions of nine death row inmates: former lieutenants Lamin Jarjou and Alieu Bah, and former sergeant Lamin Jammeh; Lamin Darboe, Dawda Bojang, Abubacarr YARBO, Abdoulie Sonko and Lamin F Jammeh. Gibril Bah and Tabara Samba the only female were Senegalese nationals.

3.6.2 The executions made good President Jammeh’s threat made in a televised broadcast to Muslim Religious leaders on the Feast of Eid El Fitr on 20 August^{xxxv} that he would execute **all death row prisoners** by mid-September to curb the increasing crime rate. The threat was not taken seriously as

it was believed to be part of Jammeh's rhetoric; there was a moratorium on the death penalty since 1995 and the last public execution in The Gambia took place in 1985. There was total disbelief therefore when CSAG first announced the executions and government dismissed it as "rumours by unscrupulous individuals trying to tarnish the image of the country".

3.6.3 Reacting to public and international outcry and condemnation the government claimed that they had used due process to carry out the executions. This was not the case as no prior notification was given to the individual prisoners, their families, their lawyers, religious leaders or the Senegalese authorities; two of the executes were Senegalese; Malang Sonko, Tabara Samba and Buba Yarboe, were killed without exhausting their legal appeals, in violation of international fair trial standards; Lamin Darboe, had his sentence commuted to life in 1993, following the moratorium; Dawda Bojang, had not exhausted his appeal to the Supreme Court violating the Constitutional requirement that all those sentenced to death must be guaranteed the right of appeal to the Supreme Court.

3.6.4 To protect the rights of some inmates on death row who feared that they would suffer a similar fate, CSAG has filed a case in the ECOWAS Court to prevent such arbitrary executions from taking place. The case is ongoing on behalf of the inmates of death row, the executed inmates and their families^{xxxvi}.

3.6.5. Relying on the right to life to challenge and the constitutionality of the death penalty in Gambia is difficult, because of sporadic amendments to the Constitution.^{xxxvii} In October 2010 the National Assembly amended the Drug Control Act of 1993 to the effect that "any person found in possession of more than 250 grams of cocaine or heroin, upon conviction, will be sentenced to death." The amendment placed drug trafficking on the same level as high treason and murder which were the only crimes meriting the death penalty in Gambia. The Drugs Control Act was again amended in April 2011 to replace the death penalty with life imprisonment when it was noted that capital punishment for drug trafficking offenses contravened Article 18 of the Constitution, which prohibits the death penalty for offenses not resulting in death.

3.6.6 In **October 19, 2012** The Gambia's Supreme Court upheld the death sentences passed on seven men accused of plotting a coup in 2009.

3.6.7 Article 18 (3) of the Constitution requires that the National Assembly from the date of its the coming into force of review the desirability or otherwise of the total abolition of the death penalty in The Gambia." This review has never taken place.

4. RECOMMENDATIONS FOR ACTION BY GAMBIA

EJE – Allow for an in depth, independent investigation into the disappearances and alleged EJE's of Kanyiba Kanyi, Daba Marenah, Momodou Lamin Nyassi, Ndongo Mboob and Buba Sanyang, Marcia Jammeh, Haruna Jammeh, Jisacha Kujabi, Elo Jallow, Wuyeh and Enor Colley and persecute perpetrators of such acts.

Impunity - Respect the decisions of the ECOWAS Court in respect of Chief Ebrima Manneh, Musa Saidykhan and other matters before the court.

Unlawful arrests and detentions – Allow for independent and impartial investigation into all threats made against all journalists including Abubacarr Saidykhan, Baboucarr Ceesay, Abdoulie John and Namana Keita. Ensure that the perpetrators of such acts are persecuted and penalized if found guilty. Create the environment for Journalists and HRDs to enable them carry out their work without fear.

Prison conditions - Institute prison reforms and immediately release and compensate detainees who have been detained for several years without charge or trial. Allow visits by the ICRC and the AU

Special Rapporteurs on Prisons and Conditions of Detention in Africa and Special Rapporteurs on Torture of the OCHCR.

Freedom of speech – Repeal the amendment to the Information and Communication Act and Criminal Code which repress press freedom. Expand the democratic space to include all persons with divergent opinions and voices and immediately stop the crackdown on HRDs journalists, government critics, opposition members, lawyers and religious leaders who hold government accountable.

Death penalty – Respect the UN and AU Commission resolutions calling for a moratorium on executions", and the application of "the death penalty in conditions not respectful of the right to a fair trial guaranteed under the African Charter on Human and Peoples' Rights and other relevant international norms".

END NOTES

ⁱ Recommendation **97.22** Continue to fight resolutely against the practice of arbitrary or summary executions and against impunity (Cote d'Ivoire) and **97.26 26**. Ensure all detainees be properly charged and brought to trial without delay, or released, and that an independent body in Gambia investigate allegations of ill-treatment, torture and extra-judicial executions (Australia);

ⁱⁱ The names given to the President's killer squads

ⁱⁱⁱ Recommendations **97.22 and 34** call on the government to continue to fight resolutely against the practice of arbitrary or summary executions and against impunity and the development of law enforcement capacities in order to fight Impunity (Cote D'Ivoire and Germany)

^{iv} Recommendation **99.47**: Allow independent investigations into the death of Deyda Hydaras and the disappearance of Chief Ebrima Manneh, including publication of findings (United Kingdom);

^v **IFJ/FAJ commend ECOWAS court hearing on Deyda Hydaras death,**

<http://www.askanisenegambia.com/3/1541/ifj-faj-commend-ecowas-court-hearing-on-deyda-hydaras-death>

^{vi} Report of the Working Group on the Universal Periodic Review*Gambia, Summary of Proceedings item 12, Human Rights Council, 24 March 2010, A/HRC/14/6

^{vii} In search of Ebrima Manneh, Press Statement by GPU, Friday June 1, 2012,

<http://thenorthbankeveningstandard.blogspot.com/2012/06/in-search-of-chief-ebrima-manneh.html>

^{viii} President Yahya Jammeh at his first engagement with the Independent Media after 17-years of leading the government. March 2011. The statement fuelled fears that Manneh was EJE.

^{ix} The Minister of Justice and Attorney-General Mr Edward Gomez quoted in an interview in the 11-12 October 2011 edition of *The Daily News* newspaper. <http://dailynews.gm/africa/gambia/article/justice-minister-chief-manneh-is-alive>

^x Recommendations 97.23 and 24 require the government to take all necessary measures to avoid unlawful arrests and detentions; to investigate reports of human rights violations by the security apparatus relating to unlawful arrest, detention, and torture of journalists, human rights defenders and opposition members and bring those responsible to justice. (Germany and Canada);

^{xi} Recommendations **97.25-28** call on the government to ensure that all detainees are properly charged and brought to trial without delay, or released and that an independent body in Gambia investigate allegations of ill-treatment, torture and EJE; that existing conditions in detention centres and prisons are improved upon and that independent organizations, diplomatic representatives are allowed access to its detention centers and in accordance with its international human rights obligations. (Canada, Australia, Iran and Slovakia)

^{xii} Statement made by Gambia's Head of Delegation to the UPR, Report of the Working Group on the UPR Universal Periodic Reports, Gambia, , document A/HRC/WG.6/7/L.5, UN, March, 2010

^{xiii} Recommendations **100. 15-30** are in relation to ceasing the harassment and intimidation of media institutions and individuals and ensuring the safety of journalist; promoting and guaranteeing the right to freedom of expression; adopting measures including legislative reforms and the development of a normative framework to guarantee freedom of the press and of expression as well as the security of journalists, members of the opposition, human rights defenders and civil organizations; ensuring free access to information and greater compliance with international conventions to which The Gambia is a signatory. (Italy, Canada, Mexico, Chile, Germany, United States, United Kingdom, Netherlands, Australia, Spain, Norway, France and Sweden);

^{xiv} Testimony of Amadou Scattred Janneh, to the 52nd Ordinary Session of the African Commission and People's Rights, Yammoukro, Cote D'Ivoire, October 9 2012

^{xvi} Recommendation 100.25. Take steps to promote free and independent media and continue work to ensure the safety of journalists, including Ndey Tapha Sossey, Sarata Jabbi-Dibba, Pa Modou Faal, Pap Saine, Sam Sarr, Ebrima Sawaneh, Emil Touray, and Augustine Kanja (United Kingdom);

^{xvii} Recommendation 99.32 and 33 Consider establishing a moratorium on executions with a view to abolishing the death penalty (Brazil); Abolish the death penalty; sign and ratify ICCPR-OP2 (Spain)

^{xviii} Section 17 (1) also states that: 'If any person alleges that any of the provisions of *sections 18 to 33 or section 36(5)* of this Chapter has been, is being, or is likely to be contravened in relation to himself or herself by any person he or she may apply to the High Court for redress.'

^{xix} There is need to align sections 10, 11, 13, 16, 19, 20, 21, and 35 with provisions of the ICCPR as noted in the Consideration of Reports Submitted By States Parties Under Article 40 Of The Covenant, Concluding observations of the Human Rights Committee, CCPR/CO/75/GMB, 12 August 2004

^{xx} Article 12 of NGO Decree 81

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- ^{xxi} African Civil Society Call for the Relocation of the African Commission on Human and People's Rights Headquarters from Banjul. ACDHRS, <http://www.acdhhrs.org/tag/death-penalty> October 8, 2012
- ^{xxii} Resolution on the Deteriorating Human Rights Situation in The Gambia, adopted at the Commission's 7th extraordinary session, Dakar, Senegal, 11 October 2009
- ^{xxiii} The vinegar is injected into the body of the victim and is lethal. The person dies within 3 hours.
- ^{xxiv} Forays Newspaper Friday, 17 August 2012 author [Fabakary B. Ceesay](#)
- ^{xxv} **ECW/CCJ/APP/04/07** CHIEF EBRIMAH MANNEH v. REPUBLIC OF THE GAMBIA
http://www.courtecawas.org/site2012/index.php?option=com_content&view=article&id=157&Itemid=27
- ^{xxvi} **ECW/CCJ/APP/11/07** MUSA SAIDYKHAN v. REPUBLIC OF THE GAMBIA(APPLICATION FOR REVISION)
http://www.courtecawas.org/site2012/index.php?option=com_content&view=article&id=157&Itemid=27
- ^{xxvii} Press Release CCG,CSAG Welcome Dr. Amadou Scattred Janneh, Press Release <http://civilsociety-gambia.org/ccg-csag-welcome-dr-janneh/>
- ^{xxviii} 1US\$=Gambian Dalasi 39.0948 at the day's exchange rate
- ^{xxix} Two UDP Militants Arraigned and Charged, The Point, Dec. 24, 2013
http://www.gambiaa.dk/forums/topic.asp?TOPIC_ID=13599
- ^{xxx} State brought charges against Gambia's Appeals Court President Justice Wowo.
<http://thenorthbankeveningstandard.blogspot.com/2013/01/state-brought-charge-against-gambias.html>
- ^{xxxi} Family of Kidnapped Gambian, Saul Ndow, Demands His Immediate Release,
<http://www.senegambianews.com/1333/55075/a/family-of-kidnapped-gambian-saul-ndow-demands-his-immediate-release>
- ^{xxxii} Two Americans Disappear in West African Dictatorship,
http://askanisenegambia.com/news_details.aspx?nwID=1556, Posted on: 25 February 2014
- ^{xxxiii} United States Government Human Rights Report on The Gambia, 2013
- ^{xxxiv} The review of the local newspapers in Mandinka and Wollof by the radio was highly popular as it provided a much needed service to the largely illiterate Gambian population. An interview with O.J. Jallow leader of the PPP in which he criticized the failures of the government led to its closure.
- ^{xxxv} The threat was made at the televised traditional meeting with the Religious Leaders on the Feast of Id El Fitr, 19th August, 2012
- ^{xxxvi} CSAG Sues Gambia Government Over Execution Of Death Row Inmate, Press Release, October 12, 2012
- ^{xxxvii} http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=652:the-death-penalty-gambias-proposed-solution-to-drug-trafficking-&catid=91:rights-in-focus&Itemid=296, Zothile Moyo (1) Monday, 17 January 2011