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The Gambia – The state of press freedom

As of the most recent Universal Periodic Review session held in February 2010, The Gambia ranked 125th out of the 178 countries comprising the World Press Freedom Index established by Reporters Without Borders. Four years later, having lost 30 points, it now ranks 155th in the 2014 Index.

Of the ten specific recommendations made to The Gambia in February 2010 on issues related to press freedom, none have been accepted by the Gambian government, and four years later, it is obvious that this situation, far from improving, has worsened. The recommendations on the legislative framework amendment have been blatantly ignored, while those specifically aimed at stopping harassment and intimidation of the media and guaranteeing the journalists' security are being violated daily.

UPR's recommendation on modifying the legislative framework restricting media freedom and freedom of expression:

Adopt measures to guarantee freedom of the press and of expression (Chile)

Carry out concrete and effective measures, including legislative action to ensure respect for freedom of expression, association and the press, in conformity with international standards (Mexico)

Develop a specific normative framework to guarantee the freedom of opinion and expression, as well as the security of journalists, members of the opposition and civil society

Far from reforming its press laws – among the most repressive on the African continent – The Gambia, to the contrary, has added legal restrictions on freedom of information during the 2010-2014 cycle.

In 2009, The Gambia adopted an "Information and Communications Act" which conflicts with

international standards on matters of freedom of information, notably in that it does not guarantee the independence of the audiovisual monitoring authority and has been placed entirely under the supervision of the Gambian Minister of Information and Communication Infrastructure. It also confers abusive and uncontrolled powers to intercept and store electronic data to the National Intelligence Agency (NIA), known for its harsh handling of the media.

On 3 July 2013, the "Information and Communication (Amendment) Act" established new guidelines for online speech crimes, which are now punishable by a 15-year prison sentence and/or a fine of up to 3 million dalasis (63,250 euros). This law criminalises anyone who might spread "false news" about the Gambian government or its public officials, or engage in caricatures, or make derogatory statements, or "incite dissatisfaction or instigate violence" against the government. Since these terms are vague enough to justify any arbitrary or politically motivated arrest, they thrust the media world into intolerable legal insecurity.

These laws supplement the "Newspaper (Amendment) Act" of 2004, which requires media to go through a registration process, as well as the Gambian Criminal Code's 2004 and 2005 amendments, which created stiffer fines and prison terms for any "seditious publication" – an offence defined in utterly suggestive terms, since merely encouraging a "disaffection" against The Gambia's President qualifies as having committed a crime. As for defamation, any writing, drawing or speech, as well as any "gesture" or "sound," directed against the government is punishable by a one-year minimum prison sentence and a fine of 50,000 to 250,000 dalasis (1,054 to 5,270 euros).

Despite its ratification of the International Covenant on Civil and Political Rights (ICCPR) and of the African Charter on Human and Peoples' Rights, The Gambia continues to violate its international obligations in matters related to freedom of expression.

Reporters Without Borders stresses the key role of the press in public debate, which must allow citizens to voice their opinions on their government's activities. RSF calls for immediate withdrawal of the July 2013 amendment, as well as for a radical reform of The Gambia's press laws, which are already muzzling the press in the name of state security.

UPR recommendations for ending threats and intimidations of journalists and the media, and for ensuring the protection of journalists.

Bring an immediate end to harassment and intimidation of independent journalists and media institutions and amend the legislation that restricts press freedom and freedom of expression (Sweden)

Cease the harassment and intimidation of media institutions (Australia)

Immediately cease the harassment and intimidation of independent media and to proceed to a reform of the legislation applicable to ensure full respect of freedom of expression (France)

Improve efforts to guarantee the freedom of the press, and take all necessary steps to protect everyone individually or in association with others against any violence, retaliation, adverse discrimination or pressure as a consequence of his or her legitimate exercise of freedom of expression according to international human rights standards (Netherlands)

Take all necessary steps to ensure the protection of human rights defenders, including journalists, against any violence, retaliation, or adverse discrimination as a consequence of their legitimate exercise of the rights according to the Declaration on Human Rights Defenders.

Independent media in The Gambia are scarce and continue to be frequently threatened. The authorities have been creating a climate of terror around any activity remotely or closely associated with journalism. Thus the government has been using legal and other means to harass and intimidate journalists and news providers on a daily basis.

Judicial harassment

The courts and the liberticidal articles of The Gambia's Criminal Code are used to pressure news providers.

On 13 January 2014, Musa Sheriff, editor and owner of the privately owned newspaper *The Voice*, and freelance reporter Sainey Marenah, were arrested by Gambian police on the grounds of "having published false information with intent to cause fear and alarm to the public" for an article covering the alleged defection of 19 government party supporters. They were held in custody for three days before being charged and released after paying bail of almost 400 euros. Since then, their trial has been postponed several times, placing them in a state of unbearable personal and professional uncertainty.

For over a year now, Alhagie Jobe, deputy editor of the *The Observer* newspaper, has been in jail under a four-count charge in connection with a single article.

In November 2013, a messenger of the opposition *Foroyaa Newspaper* was thrown in jail on charges of "sedition," after having made critical statements in public about President Yahya Jammeh.

As for the former popular television anchor Fatou Camara, also accused of "sedition," after having been arrested and arbitrarily held incommunicado for several weeks, she chose to flee the Gambia rather than appear in court.

Death threats and violence against journalists

In September 2012, Baboucarr Ceesay, a contributor to the newspaper *Daily News*, and Abubaccar Saïdykhan, a freelance journalist, were arrested and charged with "conspiring" and "inciting to violence" after they had asked to peacefully demonstrate against the execution of several death row inmates in the capital, Banjul. Since being acquitted in October 2012, the latter have received death threats from President Yahya Jammeh's supporters, who claim to be "patriotic killers" and object to the journalists' activities. Despite specific information conveyed to the Gambian police which could have helped to identify the perpetrators of these serious threats, no inquiry has been opened, thereby demonstrating the government's implicit complicity. *Reporters Without Borders urgently requests the Gambian authorities to ensure that the information conveyed to the police by the victims give rise, from this point on, to thorough investigations so as to guarantee the safety of the individuals concerned and to send a clear message to those who threaten freedom of the press.*

The Gambian regime's contempt for freedom of information is also evident in the fact that it openly targets international journalists who are customarily spared by the regimes opposed to press freedom.

In the fall of 2012, President Jammeh himself made a death threat against Pape Alé Niang, a journalist working for the privately owned Senegalese station 2STV, should he ever again attempt to report news while on Gambian territory. A few weeks earlier, French journalist **Thomas Fessy**, a *BBC* correspondent, was held for several hours at Banjul International Airport and ultimately barred from entering The Gambia, despite holding a fully valid visa. He had been dispatched to the country following the Gambian authorities' announcement that nine death row inmates would be executed.

Arbitrary suspensions

It should also be recalled that the Gambian government, despite being endowed with an adequately repressive judicial arsenal, ordered in August and September 2012 the independent radio station Teranga FM, as well as *The Standard* and *The Daily News* newspapers, to cease all activities Acting upon direct orders from the Head of State, the NIA agents who shut down these media houses stated that they did not know what had motivated the sanction, or how long it would last. Although the authorities sometimes also close down certain media in a totally arbitrary fashion, the first two media houses mentioned above were allowed to resume activities in January 2014, while the third is still banned from publishing.

These cases illustrate the hostile climate maintained by the Gambian government vis-à-vis news professionals.

UPR recommendations on the fight against impunity

Ensure that reports of human rights violations by the police, the army and the National Intelligence Agency relating to unlawful arrest, detention, and torture of journalists, human rights defenders and opposition members are investigated and those responsible are brought to justice (Canada)

It is no secret that perpetrators of violence against journalists enjoy total impunity in Gambia. The case of the *Daily News* journalists has been mentioned. Two other symbolic cases are still unsolved: that of "Chief" Ebrima Manneh, a journalist who was first reported missing on 7 July 2006, and that of reporter Deyda Hydara, former president of the Gambian journalist union and a Reporters Without Borders correspondent, who was shot and killed by unknown assailants in December 2004.

While the Gambian government denies ever having detained "Chief" Ebrima Manneh, a former prison guard places him in Banjul's Mile Two detention centre in 2008, and Gambian Justice Minister Edward Gomez inadvertently stated in 2011 that missing journalist "Chief" Ebrima Manneh was allegedly "alive." Since then, however, no official inquiry has been opened and no confirmation obtained regarding his situation.

Official findings surrounding Deyda Hydara's murder have attributed his assassination to a personal vendetta, an interpretation of the facts which is most unlikely, as shown by a December 2004 Reporters Without Borders' onsite investigation. Despite the agreement in principle given by the Gambian government to allow the United Nations to open an investigation, none has been opened as of today. The journalist's son nonetheless has lodged a complaint before the ECOWAS Court of Justice, whose next hearing should be held in Abuja on 11 March 2014. Reporters Without Borders will attend the proceedings in the capacity of witness.

Reporters Without Borders's recommendations to the government of the Republic of Gambia

Legislative reforms

Reporters Without Borders urges the Republic of Gambia's government to repeal the amendments to the "Information and Communications Act" adopted in July 2013, as well as to radically reform this entire law, which constitutes a true obstacle to freedom of information.

Reporters Without Borders calls for the repeal of the Gambian "Newspaper Act" and for the drafting of legislation which will guarantee freedom of expression and information.

Respect of international principles of freedom of expression and information:

Reporters Without Borders reminds the Republic of Gambia of its international obligations to respect freedom of information and expression, and urges the authorities to meet in good faith their obligations pursuant to Article 19 of the International Covenant on Civil and Political Rights, which The Gambia ratified in 1979.

Bring an end to acts of violence against, and harassment of, journalists

Reporters Without Borders urges all official bodies, whether executive, judicial, or involved in law enforcement, to stop the judicial harassment of news providers on fallacious grounds.

Fight against impunity

Reporters Without Borders calls for government agencies to open and conduct independent inquiries into the cases of murders of, assaults on, and threats against, journalists in order to end the climate of impunity, which continues to protect those who target news providers.