
THE GAMBIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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In The Gambia, a general climate of fear remained amongst human rights defenders, notably following the unsolved assassination and enforced disappearance of two journalists who covered human rights issues. While defenders still operated in a restricting legal and institutional environment, journalists faced a continuing campaign of harassment by the National Intelligence Agency (NIA), and members of human rights NGOs and lawyers were victims of judicial harassment.

Political context

Since the alleged 2006 failed coup d'état, allegations of conspiracy plots against President Yahya Jammeh have become a regular excuse to hamper the enjoyment of civil and political rights, as well as to launch waves of mass arrests of high-ranking officials in 2010¹. Members of the National Intelligence Agency (NIA), the army and the police arbitrarily arrested and detained Government opponents, human rights defenders, journalists and former security personnel. Torture and other ill-treatment in custody were reported but were never investigated by the police.

In 2010-2011, the environment for independent and opposition media remained hostile, with numerous obstacles to freedom of expression, including administrative hurdles, arbitrary arrest and detention, intimidation and judicial harassment against journalists and the closure of media outlets, leading to self-censorship. Although Section 25 of the 1997 Constitution guarantees freedom of expression, according to the Gambian authorities, this right is subject to "restrictions necessary for the promotion of national security, morality and the rights of other persons"². A hope's glimmer for possible future improvement of this situation came on November 12, 2010, when alongside the 48th Ordinary Session of the African Commission on Human and Peoples' Rights, the first ever formal meeting between the African Union (AU), the African Peer Review Mechanism (APRM) Secretariat and key freedom of expression experts

1/ See African Assembly for the Defence of Human Rights (*Rencontre africaine pour la défense des droits de l'Homme* - RADDHO) and Amnesty International-Senegal.

2/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Gambia*, UN Document A/HRC/14/6, March 24, 2010. In particular, The Newspaper Amendment Act 2004, the Criminal Code Amendment Bill 2004, the Official Secrets Amendment Act and the Communications Bill 2009 form the legal framework for judicial prosecution against "sedition", "libel", "false publication" and "defamation", which makes it practically impossible for journalists to work without breaching the law.

from across the continent took place in Banjul to discuss freedom of expression³. Minister Gomez promised to look into current hostile laws and their provisions to press freedom in line with international standards of free expression⁴. However, this positive momentum was chilled down on March 16, 2011, when the Gambian President, during a rare meeting with select members of the media corporation, accused some journalists of being “mouthpiece of opposition parties” and declared that “one freedom I will never give you is the freedom, the liberty to write whatever you want (...)”⁵.

Legal and institutional framework restricting the environment for human rights activities

In 2010–2011, the legal and institutional environment continued to limit the development of human rights monitoring activities by civil society groups, which led human rights organisations to apply self-censorship, to focus on non-sensitive issues and not to carry out human rights monitoring activities. This was mainly due to the stifling climate in which they operated, as well as the absence of public institutions that offer them effective protection and the obstacles imposed through the registration process. Indeed, the operation of a non-governmental organisation (NGO) is regulated by 1996 Decree No. 81 (NGO Decree). Since then, the system has not been amended. In 2010, the supervision of NGOs activities was placed under the authority of the office of the President, through the NGO Affairs Agency (NGOAA), thus demonstrating an attempt by the President himself to exercise a closer scrutiny over the existence and activities of civil society organisations. In addition, the NGOs are bound by an NGO Code of Conduct and a Protocol of Accord, signed with the relevant ministries, departments or agencies. The NGOAA is responsible for ensuring their compliance with both documents, for monitoring and evaluating their activities, for implementing the National Policy on NGOs as well as for preparing and implementing institutional and human resources development programmes for NGOs. As a consequence, their activities are strictly monitored and must be in line with the national development policy. Furthermore, NGO registration with NGOAA obliges an NGO to participate in development activities that are in consonance with the policies and priorities of the Government. NGOs are therefore seen by the Government as bodies to implement The Gambia’s development

3/ See Article 19. Within this framework, a delegation of journalists’ rights advocacy organisations met with Minister for Justice and Attorney General Mr. Edward Gomez in his office, to discuss about the oppressing media environment.

4/ See IFEX Press Release, November 16, 2010.

5/ See CPJ Press Release, March 23, 2011.

programme and not as independent entities. Moreover, the NGOAA has the authority to revoke the Protocol of Accord granted to an NGO without judicial review. As a result, NGOs choose to focus on issues which are deemed not sensitive and on which the Government is making progress such as women and children's rights in order to avoid reprisals from State authorities. In this context, no NGO can carry out any monitoring of human rights violations. But NGOs working on issues that are not deemed "politically sensitive" nonetheless face acts of harassment if the authorities feel threatened by their growing reputation or activities.

In addition, the Gambian authorities continued to make aggressive and denigrating public statements intended to intimidate any one from conducting human rights activities. For example, in an interview given to *The Daily News* published on January 10, 2011, Justice Minister Edward Anthony Gomez warned that Gambians abroad engaged in "painting a grim picture" about The Gambia's human rights record would be prosecuted if they returned in the country. He added that "these are unfortunately evil members of the Gambian society who took refuge abroad putting every nonsensical story on papers and on radios to tarnish the good image of The Gambia Government"⁶.

Acts of reprisals against journalists who denounce human rights violations and corruption

A general climate of fear remained amongst journalists covering human rights issues, notably following the unsolved assassination of Mr. **Deyda Hydara**, Editor and co-founder of the private newspaper *The Point* and also a correspondent in The Gambia for *Agence France-Presse* and Reporters Without Borders (RSF), in 2004⁷, the ongoing enforced disappearance of Mr. **Ebrima Manneh**, a journalist at the *Daily Observer* newspaper, in 2006, and the continuing campaign of harassment by the NIA against journalists. In 2010, journalists who promoted the respect of human rights and denounced corruption indeed continued to face acts of intimidation. For instance, on February 16, 2010, two journalists of the *Daily News*, Messrs. **Saikou Ceesay** and **Lamin Njie**, were requested to go to the office of Mr. Ensa Badjie, Inspector General of Police (IGP), at the police headquarters in Banjul. Once arrived, both journalists, who

6/ The Justice Minister was reacting to *The Daily News* story about 24 British MPs who signed an Early Day Motion the month before calling for international pressure on the Gambian Government for human rights violations.

7/ The Government claimed that the disappearance of Mr. Deyda Hydara was still being investigated, but faced challenges as the two key witnesses are outside the jurisdiction and several attempts to reach them were unsuccessful. See Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Gambia*, UN Document A/HRC/14/6, March 24, 2010.

reported in company of Messrs. **Madi Ceesay**, Publisher and Editor of *Daily News*, and **Ahmed Alota**, Executive Director of The Gambia Press Union (GPU), were questioned in relation to an article published on February 15, 2010 on the deploring conditions of the new police barracks in the capital. The IGP warned the journalists to refrain from reporting on the police if they did not want to face consequences. He also informed them that they would have been killed if the publications had concerned the military barracks. The IGP subsequently told journalists that he would send his thugs to terrorise Mr. Ceesay, for granting interview with *BBC* on the threats made by Mr. Badjie against him. On March 31 and April 1, 2010, another Gambian journalist who resided in the United Kingdom at the time, **Mr. Yusupha Cham**, received death threats by email from persons suspected to be agents of the NIA who reproached him of attacking the administration of President Jammeh in articles he contributed to publish on Gambian news websites. Mr. Cham wrote a number of critical articles about Government's bad administrative policies, excessive power abuses and human rights violations perpetrated in the country⁸. On December 16, 2010, the Court of Justice of the Economic Community of West African States (ECOWAS) confirmed that Mr. **Musa Saidykhan**, former Editor of the banned private newspaper *The Independent* who is now living in exile, was tortured by members of the President's security guard during a 22-day detention without charge in 2006. He had been arrested upon his return from South Africa, where he attended a human rights forum and granted an interview to the media about the deteriorating human rights situation in The Gambia, particularly the murder of Mr. Deyda Hydera, his paper's reports on the killing of fifty West African nationals in The Gambia, including 44 Ghanaians in 2005, and the publication of a list of alleged coup plotters in the aftermath of the alleged 2006 coup d'état in The Gambia. The ECOWAS Court stated that his arrest and subsequent detention by the authorities were illegal and that they violated his right to personal liberty and a fair trial as guaranteed by Articles 6 and 7 of the African Charter on Human and Peoples' Rights. Mr. Musa Saidykhan will receive 200,000 US dollars (about 140,000 euros) as damages. The ruling is final without possibility of appeal.

Judicial harassment against members of human rights NGOs

In 2010–2011, several members of human rights NGOs were victim of judicial harassment as reprisals to their activities. On February 22, 2010, **Mr. Edwin Nebolisa Nwakaeme**, the founder and Programme Director of Africa for Democracy and Good Governance (ADG), an organisation

8 / See IFEX Press Release, April 8, 2010.

that promotes human rights, democracy and good governance in Africa, was arrested by the Immigration Department for allegedly lying about the category of his organisation for registration purposes and released three days later. On March 1, he was summoned by the Serious Crimes Unit of the police headquarters in Banjul and rearrested. When he appeared before the Banjul Magistrate Court on March 8, Mr. Nwakaeme was charged with “giving false information to public officials” for having written, in a letter sent to the daughter of the Gambian President in November 2009 nominating her as an ADG ambassador at the occasion of the celebration of the World Day for the prevention of child abuse, that ADG was a NGO despite the fact that it was registered as a charity. When he was taken to court again on March 10, Mr. Nwakaeme pleaded not guilty and his lawyer applied for bail, which was denied by the Judge. On September 6, he was sentenced to a mandatory six-month prison term with hard labour and a fine of 10,000 dalasis (about 262 euros). The court also banned him from running ADG in the country and ordered him to surrender all the documents and licence pertaining to the organisation. On December 17, 2010, the Banjul High Court upheld his conviction in appeal. On January 14, 2011, Mr. Edwin Nebolisa Nwakaeme was released from jail, following completion of his six-month prison sentence, and he was deported from The Gambia to Nigeria, his native country. No court order was reportedly issued for his deportation. On October 11, 2010, Dr. Isatou Touray and Ms. Amie Bojang-Sissoho, Executive Director and Programme Coordinator of The Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP), an organisation working on sexual and reproductive health and rights of women and children, were called by an agent of the NIA for a meeting with the Public Relations Officer of the National Drug Enforcement Agency. Once arrived, they were arrested and held in custody for a day before being transferred to Mile 2 central prison. They were charged with “theft” for the alleged embezzlement of 30,000 euros received in 2009 from “Yolocamba Solidaridad”, a Spanish development NGO providing support to local civil society organisations. On October 12, their application to be released on bail was rejected by the court. After nine days of detention, on October 20, following wide national and international pressure, both human rights defenders were released on bail for the sum of 1,5 million dalasis (about 39,323 euros) and two sureties with a landed property by the Banjul Magistrates’ Court. On November 3, 2010, the trial opened before the Banjul Magistrates’ Court, but the principal witnesses who are Spanish citizens representing Yolocamba Solidaridad were absent. On January 31, 2011, Ms. Begoña Ballestros Sanchez, Director of the Spanish NGO, denied accusing anyone associated with GAMCOTRAP

of theft during a hearing at Banjul Magistrate's Court⁹. As of the end of April 2011, the trial was still ongoing.

Harassment against human rights lawyers

In 2010-2011, lawyers were also subjected to acts of harassment and intimidation. Indeed, two prominent lawyers known for their commitment towards human rights were prosecuted under spurious charges. On January 26, 2011, lawyer **Lamin K. Mboge**, a senior member of The Gambia Bar Association (GBA) and former magistrate, who is also the leading counsel in the case involving the two officials of the GAMCOTRAP, was remanded at the Mile 2 central prison by the Banjul Magistrates' Court. Mr. Mboge was charged with "making false documents without authority", coupled with "false swearing" and "uttering false documents", following a criminal complaint lodged by one of his clients over a landed property he allegedly sold to another prospective buyer without formal paperwork. Mr. Mboge denied the charges. On January 31, 2011, he was released on a bail of 200,000 dalasis (about 5,243 euros) with two Gambian sureties who must have landed properties within the greater Banjul area and should deposit their national identity cards at the office of the registrar. As of the end of April 2011, the trial was still ongoing. Similarly, on December 30, 2010, lawyer **Moses Richards**, former High Court Judge at the Special Criminal Division, who is now practising as a lawyer, was arrested and detained at the NIA headquarters in Banjul. On the next day, he was charged with "giving false information" and "sedition" to public officer, after writing and addressing a letter on behalf of a client to the Honourable Sheriff of The Gambia. Acting as a legal counsel and following expressed instructions and information of his client, Mr. Richards addressed to the latter a letter dated December 6, 2010, which content was acknowledged by the Sheriff himself on the same day. However, on December 15, 2010, he wrote to Mr. Richards copying the office of the President, among others, and accused him of blackmail, showing disrespect to the office of the President, and giving false information to a public servant. On December 31, 2010, Mr. Richards, who denied both charges, was denied bail and returned to police custody. During the night of January 2, 2011, he was taken to the Mile 2 central prison without any court order. On January 3, 2011, Banjul Lower Court released him on a bail of 500 dalasis (about 13 euros)

9/ Although minor tensions had arisen between the European and the local NGO concerning receipt of invoices and other materials relating to funds donated, the Director of Yolocamba Solidaridad specified that she had not brought any kind of legal action against its implementing partner but rather had merely provided information to the Gambian authorities about their work in the country. She added that she had only been made aware of the detention of Dr. Isatou Touray and Ms. Amie Bojang-Sissoho through coverage in the media.

and also asked to deposit his travel documents to the Registrar of the Court. As of the end of April 2011, the trial was still ongoing.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
		Press Release / International Fact- Finding Mission	May 18, 2010
Ms. Isatou Touray and Ms. Amie Bojang-Sissoho	Arbitrary detention / Judicial harassment	Joint Press Release	October 15, 2010
Mr. Saikou Ceesay	Threats	Urgent Appeal GMB 001/0211/OBS 015	February 9, 2011