

THE GAMBIA: DEMOCRATIC REFORMS WITHOUT HUMAN RIGHTS

Introduction

Despite significant political changes in the Gambia and the notable release of numerous long-term prisoners of conscience, some of whom had been held since Captain (now Colonel (Rtd)) Yahya Jammeh seized power in July 1994, human rights continue to be violated with impunity. Since the ban on political activities was selectively lifted in August 1996, dozens of members and supporters of legal opposition parties have joined the ranks of those persecuted by the authorities for their political activities and have been subjected to short-term detention. Some have been tortured. The three political parties, which had existed before military rule, remain banned and all individuals who had held the office of President, Vice-President or government minister during the thirty years prior to the military coup are forbidden from engaging in political activities. The first death sentences since the death penalty was reintroduced in 1995 were handed down in June 1997 although no judicial executions have taken place. There has been no progress in any investigations into past human rights violations.

The long awaited return to civilian rule was completed in January 1997. The presidential election in September 1996 and legislative election in January 1997 confirmed Colonel (Rtd) Yahya Jammeh as President and his political party as dominant in the national assembly.

A new Constitution came into effect in January 1997. Amnesty International raised concerns in August 1996 about the threats the new Constitution would pose to human rights¹. In particular, the organization raised concerns about the articles which allow for derogation from human rights provisions in a non-specified state of public emergency. Even without declaring a state of public emergency, the new government has violated one of the most basic of civil and political rights, the right not to be tortured, or subjected to cruel, inhuman or degrading treatment or punishment. In addition, it seems that some of the military decrees passed before the return to civilian rule still remain in force, even though the Constitution should invalidate any other law which is inconsistent with its provisions.

The return to civilian rule has improved the Gambia's international reputation and as a result international donors, for example the European Commission and the Commonwealth, have resumed assistance. It is important that this international cooperation should be directed to improve respect for fundamental human rights.

¹ Please refer to *The Gambia: A new constitution - revised draft still threatens human rights*, published by Amnesty International on 7 August 1996 (AI Index: AFR 27/07/96)

Human rights violations during the election period

The main opposition party, the United Democratic Party (UDP), led by the vice-chairman of the Gambian Bar Association, Ousainu Darboe, was registered at the earliest opportunity in early September 1996 along with the Alliance for Patriotic Reorientation and Construction (APRC), formed by the military leader, Chairman of the Armed Forces Provisional Ruling Council (AFPRC), Yahya Jammeh, and two other parties². All four parties contested the presidential election later that month.

Some long-term prisoners of conscience remained held during the election period. Before campaigning started, the President of the Provisional Independent Electoral Commission, Gabriel Roberts, made a public appeal for the release of all political prisoners to allow them to freely participate in the elections. This included 25 alleged supporters of the former ruling party, the People's Progressive Party (PPP), who had been held since October 1995, and leading members of the previous administration held since July 1994. However, the government refused to release them on the grounds that they must stay in custody to answer charges against them. Some had been charged with sedition, others with theft or abuse of public office. They were finally released in two measures of amnesty in November 1996 and February 1997 when all charges were dropped. Amnesty International believes most of those released were prisoners of conscience.

Others, members of the UDP have been subjected to harassment, short term imprisonment and torture. By 21 September 1996 at least 12 UDP members had been arrested in various places, some for collecting signatures of support. Of these, at least five remained held in December 1996. After an intervention by Gabriel Roberts in mid-December 1996, UDP candidate for Jarra West, Kemeseng Jammeh, was released with two others. These three had been ordered released by a magistrate on 5 December 1996 but had been immediately re-arrested by security officers, apparently acting on official instructions.

On 30 September 1996, two UDP supporters, Wassa Janneh and Dembo Karang Bojang, were arrested at their homes and held at Brikama Police Station, some 25 kilometres outside Banjul, before being released on bail later the same day. However, they were rearrested the following day. Wassa Janneh was questioned about statements he had made at a recent UDP rally in Gunjur, some 40 kilometres south of Banjul, and Dembo Karang Bojang was reportedly arrested for patrolling the streets on the day of the presidential election on the grounds that this could influence voters. Demba Karang Bojang was released after a few days in

²The other parties are the National Reconciliation Party (NRP), led by Amath Bah, and the People's Democratic Organisation for Independence and Socialism (PDOIS), led by Sidia Jatta.

custody, but Wassa Janneh remained held until late December. Wassa Janneh was again arrested, and tortured in June 1997 (see below).

A few days later, on 3 October 1996, Buba Ayi Sanneh, a UDP supporter, was arrested on suspicion of attempting to cause breach of the peace after he had approached the Assistant Commissioner of Western Division to advise him that the recent arrest of these two UDP supporters might provoke a demonstration which could result in divisions and unrest in the area. On the same day, Ansumana Bojang, another UDP supporter, was arrested at his home and detained at Bundung police station. No reason was given for his arrest. Both were set free on bail on 7 October 1996. Also freed on bail the same day was Fabakary Taal, a journalist and member of the UDP, who had previously been held for 10 days in July 1996 for distributing his student newsletter at the celebrations to mark the second anniversary of the military coup. Fabakary Taal was alleged to have physically assaulted an APRC militant. All three were finally released without charge on 18 November 1996.

UDP supporters have also been subjected to severe ill-treatment at the hands of the authorities and of supporters of the ruling party. On 22 September 1996, the last Sunday before the presidential election, there were many political rallies held by both the UDP and the APRC. At one UDP rally in Lamin, just as it was getting dark, soldiers, some in civilian clothes, arrived by truck and, according to eye-witnesses, they jumped from the trucks, grabbed a group of UDP supporters and beat them with fists, cutlasses and/or boots before getting back on the truck and moving on to find another group of opposition supporters. This reportedly continued for several hours. Later in the evening, there was a substantial army presence at Denton Bridge which is the only thoroughfare to reach the capital, Banjul, at the time that UDP supporters were arriving home from a political rally. Vehicles containing some 100-200 supporters were stopped and the occupants were ordered to lie face down on the ground and were severely beaten with sticks and other weapons, possibly including rubber truncheons. It is reported that a senior military member of the government was present and even encouraging the military in their acts of violence. Some were escorted back to the Atlantic Barracks in Banjul, where they were again kicked, whipped and beaten. Those who were not so severely injured then scattered and tried to make their way home. On reaching Denton Bridge, some were again assaulted by soldiers. The authorities claimed that the UDP trucks were laden with cutlasses and stones; however, independent sources suggest that the photographic evidence used to support this claim was fabricated. The authorities also claimed that UDP supporters attacked an APRC convoy; again, independent sources said this allegation was without foundation. Three people are reported to have died later as a result of their ill-treatment. Such deliberate use of cruel, inhuman and degrading treatment is contrary to international standards and in particular to the Gambia's obligations under the International Covenant on Civil and Political Rights.

Human rights violations since the elections

Arrests, torture and ill-treatment

In March 1997 three UDP members were arrested at Ousainu Darboe's house. Demba Kanyi, Musa Kanyi and Ba Sorie Ceesay were held for a few days without charge or trial. The police arrived to break up a gathering organized to welcome the leader home from a Commonwealth meeting in Botswana. Many of the participants, including women, were beaten. Demba Kanyi was reportedly injured as a result of being beaten at the time of arrest.

On 10 April 1997 Pa Modou Faal, Secretary General of the Gambia Workers Confederation, was arrested by agents of the National Intelligence Agency³ (NIA) and held for 26 hours as he was about to leave the country for Libya. His passport, which was confiscated when he was detained incommunicado by the NIA in December 1996, had just been returned to him.

In May 1997, one person died in custody, apparently as a result of torture. Yaya Drammeh had been held at Banjul's Mile Two prison since an attack by armed men on the Gambia's second largest military camp at Farafenni, some 100 kilometres east of Banjul, in November 1996. He was under constant medical care when he died in May. The government stated he died of a blood disorder, but sources at the hospital claimed he had been vomiting blood, could not speak and had injuries to the genitals when he had been brought to hospital three days before he died. Hospital sources reportedly refused to state whether an autopsy had been carried out and no investigations have been started. Principle 36 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states: "Whenever the death ... of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the cause of death ... shall be held by a judicial or other authority, either on its own motion or at the instance of a member of the family of such a person or any person who has knowledge of the case."

On 8 June 1997 eight UDP members were arrested at the party's first regional constituency congress in Brikama when police intervened claiming the meeting was illegal. Their leader explained it was a congress, not a public rally, so did not need a permit. The detainees were first taken to Brikama police station, then to various other police stations and

³The National Intelligence Agency was created by military decree in June 1995 and has far-reaching powers including the authority to arrest and detain anyone suspected of threatening state security and to intercept their communications. Despite the fact that the new Constitution, which came into effect in January 1997, should invalidate any other laws which are inconsistent with its provisions, the NIA remains operational.

finally to the Banjul headquarters of the NIA, where they were all subjected to torture on the night of 11 June and released on bail on Friday 13 June 1997. Amongst those arrested and tortured was a woman, Sarjo Kunjang Sanneh, who was one of those released in the February 1997 measure of amnesty; she had been held since December 1996. Another was Wassa Janneh, who had been previously arrested on 30 September 1996.

Photographs from: *Article 19*

Wassa Janneh after his release in June 1997

The victims spoke to the press immediately after their release and showed evidence of the injuries sustained as a result of being beaten with heavy whips while being forced to crawl on their hands and knees before security officials. There were also allegations that a water cannon

had been used on them and that one victim, Doudou Sanyang, had been burned on his genitals. In response, the Attorney General issued a statement that the allegations of torture would be fully investigated; however, no investigation has yet been started.

Since these events, the UDP has been demanding an investigation into incidents of torture and challenging in court the requirement to obtain advance permission for meetings and the repeated refusals to grant permission. The ruling party does not have to fulfil the same requirements and no other party has been refused permission or had their meetings broken up by police.

On 27 July 1997 Yaya Sanneh, a UDP member, was brutally arrested at his home by soldiers. A few days earlier, he had been discussing with others in Bambali village a recent military attack, which took place at the military base of Kartong near to the Senegalese border. One of those present reportedly disagreed with his point of view and said he would make sure Yaya Sanneh was arrested for saying this. Shortly after, he was arrested by soldiers and severely beaten both during arrest and on the journey to Farafenni police station. On the day he arrived the officer commanding the police station ordered that he receive medical treatment. The local medical centre then referred him to the Royal Victoria Hospital in Banjul because his condition was worsening. He was finally discharged from hospital but had great difficulty walking apparently as a result of the severe and sustained beatings he had received. Yaya Sanneh himself told the press that he had also been passing blood in his urine. The army categorically denied all reports of ill-treatment, saying that he had been simply arrested by the army's military police and handed over to the police for further investigation on account of his alleged statements in support of military attacks. This denial does not explain the physical state of Yaya Sanneh as reported in the press.

On 24 September 1997, the UDP was holding a preparatory meeting in a private house in Gunjur when it was disrupted by the police. Two UDP members, Kebba Barrow and Sandang Bojang, were taken to the Gunjur police post. They were held until the evening when they were released without charge. Their lawyers were denied access to the detainees and this led party officials to believe rumours that they had been taken to NIA headquarters where they risked being tortured. The UDP publicised this fear. The following day the two men were asked to report to Brikama police station and were taken to Gambia Television to disprove allegations made by the party that they had been tortured. It seems that they were not subjected to physical torture during their period in police custody.

Journalists have continued to be harassed. The new Constitution has supremacy over any other law found to be inconsistent with any of its provisions. However, none of the repressive decrees introduced during the period of military rule has been specifically repealed. For example, Decrees 70 and 71, issued in February 1996, modified the Newspaper Act to

increase the fine a hundredfold for any contravention of the act. It also introduced a requirement that a large sum, Dalasis 100,000 (US \$10,000) must be provided as a bond to re-register all existing newspapers and for all new ones. Irregularities with the bond formalities brought proprietors and editors of four newspapers into court for several weeks and the suspension of their papers for one week. The long-lasting impact of these decrees has been an increase in self-censorship to prevent any possible contravention. The effect of these decrees, coupled with more overt forms of repression, has a lasting impact on freedom of information in the Gambia. In January 1997 three foreign nationals, all employed at the *Daily Observer* newspaper were deported from the Gambia. In November, the paper's editor-in-chief, Ellicot Seade, was also deported.

In July 1997, Alhaji Yorro Jallow, a stringer for the British Broadcasting Corporation (BBC) and Alieu Badara Sowe, a freelance journalist, were held for five days questioning after they reported that a prison riot had taken place in the capital's Mile 2 Prison.

In October 1997, the authorities banned a very popular programme on the New Citizen radio station, one of the few private radio stations created in recent months. The programme had reviewed the written media thereby giving widespread publicity to issues otherwise only available to the reading public. This follows a similar directive in May 1997 by the Director of Broadcasting Services for Radio Gambia and Gambia Television prohibiting them from broadcasting programmes critical of female genital mutilation. It is reported that this directive was issued following official pressure.

On 6 November 1997, Aldiouma Cissokho, spokesman for a collective of Mauritanian non-governmental organizations, was arrested by the Gambian police. The previous day, he had spoken at a press conference organized by the collective and criticized the Mauritanian government's record on human rights. They were in Banjul for a meeting of the African Commission on Human and Peoples' Rights. He was released after less than two hours in custody after interventions by members of the African Commission and delegates from Amnesty International, the International Commission of Jurists and Human Rights Watch who were also attending the Commission.

Death Penalty

In June 1997 four men were sentenced to death by the High Court of the Gambia after being convicted of charges of treason for trying to overthrow the government in an armed attack on Farafenni military camp in November 1996. These were the first death sentences passed since the penalty was re-introduced in 1995. They exercised their right to appeal and the convictions

and sentences were quashed in October 1997. However, they remain held and are believed to face new charges. The precise nature of these charges is not clear and so it remains a possibility that they again risk being sentenced to death.

When the new Constitution was drafted Amnesty International expressed concern that the death penalty was retained. The Constitution stipulates that the National Assembly has the responsibility to review the desirability or otherwise of total abolition of the death penalty within 10 years. Amnesty International called on the authorities at that time to immediately rejoin the worldwide trend towards the abolition of the death penalty. In the meanwhile, the government should consider suspending executions, as recommended by the UN Commission for Human Rights in its resolution 1997/12

Unresolved human rights violations from the period of military rule - the need for accountability

Other cases of human rights violations remain unresolved from the period of military rule. In November 1994, just four months after the military had seized power, several soldiers were killed and others arrested following an alleged attempted coup. The circumstances in which 13 of the soldiers died remain unclear and it seems they may have been extrajudicially executed .

Captain Sadibou Haidara was Minister of the Interior in the early months of military rule. In January 1995, he was arrested with Captain Sanna Sabally, Vice-Chairman of the then ruling AFPRC, apparently because they disagreed with the revised timetable for the return to civilian rule. There were reports that both men had been ill-treated in custody. Captain Sabally was sentenced to nine years' imprisonment. Captain Haidara died in custody six months after arrest. It was reported that the post mortem concluded he had died as a result of long-standing high blood pressure which caused kidney and lung problems. However, his family dispute these findings and have repeatedly called for an independent investigation into the reasons of his death as required by international standards.

In June 1995, Finance Minister Ousman Koro Ceesay was found dead in the burned-out wreckage of his car. His family continues to demand an investigation into the circumstances of his death. Amnesty International has also urged the government to investigate this death as reports suggest that he had already been killed by someone close to the ruling AFPRC before the car was set alight.

No one has been found responsible for these violations of human rights and brought to justice.

Next steps - Amnesty International's recommendations to the Government of the Gambia

End arbitrary detention of prisoners of conscience

The Gambian Government should:

, end harassment, arrest, detention and torture of critics and opponents of the government, including members of opposition political parties and journalists, solely for peacefully exercising their right to freedom of expression, association and assembly as guaranteed by the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.

, enforce the provisions in the Gambian Constitution which stipulate:

(1) Every person shall have the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention...

(2) Any person who is arrested or detained shall be informed as soon as is reasonably practicable and in any case within three hours, in a language that he or she understands, of the reasons for his or her arrest or detention and of his or her right to consult a legal practitioner.

(3) Any person who is arrested or detained -

(a) for the purpose of bringing him or her before a court in execution of the order of a court; or

(b) upon reasonable suspicion of his or her having committed, or being about to commit, a criminal offence under the law of the Gambia,

and who is not released, shall be brought without undue delay before a court and, in any event, within seventy-two hours.

, repeal the following decrees which threaten freedom of expression and association:

- Decree 45 of June 1995 which established the National Intelligence Agency;

- Decrees 57 of 1995, 59 of 1995 and 66 of 1996 which permit detention without trial of a person by the police, or army without trial on the orders of the Minister of the Interior if "he is satisfied that the arrest and detention of a person is in the interest of the security, peace, and stability of the Gambia". The initial period of detention can last up to 90 days and this can be renewed by the same Minister. They also nullify writs of *habeas corpus*;
- Decree 89 of August 1996 which bans three political parties and denies members of the government prior to the July 1994 military coup their rights to freedom of association.

Guarantee the safety of detainees and demonstrate opposition to torture

Amnesty International urges that:

- , safeguards should be introduced to protect all detainees and prisoners from torture and ill-treatment to conform to the Gambia's international obligations, including under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights;
- , the Gambian Government should demonstrate its total opposition to torture: it should also be made clear during the training of all officials involved in the custody, interrogation or treatment of prisoners, especially those of the National Intelligence Agency, that torture is a criminal act;
- , all complaints of torture should be impartially and effectively investigated; the methods and findings of such investigations should be made public; and those responsible for torture should be brought to justice;
- , as a sign of its commitment to human rights, the Gambia should complete the process of becoming a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Gambia has signed this Convention but not yet ratified it.

Abolish the death penalty

Amnesty International is totally and unconditionally opposed to the death penalty which it considers the ultimate cruel, inhuman and degrading punishment.

- , The National Assembly should urgently consider total abolition of the death penalty. Pending abolition, all death sentences should be commuted and no further death sentences passed.

Start immediate investigations into human rights violations

The preamble to the 1997 Constitution states:

"The Constitution provides for us a fundamental law, which affirms our commitment to freedom, justice, probity and accountability."

Yet, human rights violations have remained unpunished.

Amnesty International urges that:

- , the Gambian Government must follow up the public statement in June 1997 by the Attorney General that allegations of torture would be fully investigated. An independent inquiry should be organized to investigate the allegations of torture, in order to bring to justice those responsible;
- , investigations must also be opened into the unexplained killings during the rule of the AFPRC and the death in custody of Yaya Drammeh since the return to civilian rule. Those responsible must be brought to justice to give a clear message that human rights violations will not be tolerated.