



## **Contribution to the Universal Periodic Review Mechanism 7th session of the Working Group of the Universal Periodic Review**

**A joint submission on the Republic of the Gambia, by  
International PEN, International Publishers Association (NGOs in Consultative  
Status with ECOSOC) and Index on Censorship**

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International PEN, on behalf of the submitting organisations, welcomes the opportunity provided by the Office of the High Commissioner on Human Rights to comment on the human rights situation in the Republic of The Gambia, about which it has had serious concerns for a number of years. This document provides an overview of the current situation for print journalists and examples of specific cases of individuals whose right to freedom of expression and other basic rights have been severely restricted.

### **1. Overview of free expression situation**

Although freedom of expression is protected in The Gambia under both national<sup>1</sup> and international<sup>2</sup> law, the enjoyment of this right has deteriorated drastically under President Yahya Jammeh, who seized power in 1994 following a military coup which ended decades of democracy. Since then, apart from a brief post-coup honeymoon period and despite a nominal return to constitutional rule in 1996, President Jammeh has been openly hostile to the country's historically well organized independent media, an attitude manifest in numerous public statements. As early as 1994, for example, he declared: "Journalists are the illegitimate sons of Africa. Citizens should not buy newspapers so that journalists can starve to death."

The President's attitude towards the media has hardened over the last 15 years. He has continued to make statements showing his disregard for freedom of expression and of the press and directly threatening journalists. Increasingly repressive legislation regulating the media has been introduced, including the Criminal Code Amendment Act 2004, which provides for prison sentences of between six months and three years for publishing material considered to be defamatory or seditious - a move that flies in the face of

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<sup>1</sup> Article 25 of the 1997 Gambian Constitution

<sup>2</sup> Including Article 19 of the International Covenant on Civil and Political Rights and Article 9 of the African Charter on Human and People's Rights

growing international consensus that press offences should be decriminalized and dealt with by civil courts. Following the latest failed coup attempt in March 2006, over 60 Gambians were arrested and detained, including a number of journalists, some of whom were reportedly tortured in custody. Newspapers were also closed down, including the bi-weekly *The Independent*, based in the capital Banjul, which remains banned to this day.

Journalists who are critical of President Jammeh and his government or who provide information to online news sources or foreign journalists face retaliation in the form of threats, arbitrary arrest and detention, prosecution, unfair trials, imprisonment, and even disappearance and death. The Gambian authorities carry out these actions with almost complete impunity. For example, the 2004 murder of leading newspaper editor **Deyda Hydara** remains unsolved, while the government continues to deny any knowledge of journalist “**Chief**” **Ebrimah Manneh**, who disappeared in 2006, despite a 2008 regional court ruling ordering it to release Manneh and to pay him compensation (see below for details on these two cases).

As a result of this repression, some 27 journalists have reportedly gone into exile since 1994, more than half of them in the last two years, a high proportion of them having been granted asylum in another country. Self-censorship is said to be common among those that remain in The Gambia.

Journalists are not alone in being targeted. In the Gambia, the country that hosts the African Commission on Human and Peoples’ Rights, human rights abuses and suppression of political and social dissent by the army, National Intelligence Agency (NIA) and police are widespread.

## 2. Unsolved murder of Deyda Hydara

Deyda Hydara, publication director and co-owner of the weekly *The Point*, and correspondent for Agence France-Presse and Reporters Sans Frontières, was shot dead on the night of 16/17 December 2004. Hydara, 58, was shot three times in the head as he walked from his office after celebrating the 13<sup>th</sup> anniversary of the establishment of *The Point*. Two of his colleagues were also injured in the attack. The killing came just days after the passing of the Criminal Code Amendment Act 2004, which introduced mandatory prison terms for any published work judged to be “seditious” or “libelous”, and which Hydara had criticized in a number of articles.

Hydara’s murder remains unsolved although he is widely believed to have been killed by state security agents. However, in an interview on state television in early June 2009, President Jammeh again denied his government’s involvement in the killing. He suggested that Hydara had been shot as a result of an adulterous affair and said “those who want to know who killed [him] instead go and ask him in his grave.” Six journalists who published a Gambia Press Union (GPU) statement castigating the President for these comments were jailed for two years for sedition and defamation in August 2009 (see below for details).

### **3. Enforced disappearance of “Chief” Ebrimah Manneh**

“Chief” Ebrimah Manneh, reporter and sub-editor for the pro-government *Daily Observer*, was reportedly arrested by NIA officers on 7 July 2006 and has been detained incommunicado ever since, apparently without having been charged with any offence. Manneh disappeared after having had contact with a foreign journalist prior to the July 2006 African Union Summit held in Banjul. The Gambian authorities have repeatedly denied any knowledge of Manneh’s whereabouts, despite a number of sightings. The most recent of these was at a hospital in July 2007 when Manneh was reportedly in the company of members of the Police Intervention Unit (PIU), said to be a paramilitary wing of the Gambian Police Force and Prison Service.

On 5 June 2008, in a landmark ruling, the Community Court of Justice of the Economic Community of West African States (ECOWAS) declared Manneh’s arrest and two-year detention to be illegal and ordered the authorities to release him. It also awarded Manneh US\$100,000 in compensation from the Gambian government. However, the government refused to cooperate with the ECOWAS court proceedings and publicly rejected its ruling in April 2009. Manneh remains detained.

### **4. Harassment of journalists by the authorities**

Journalists who write articles which are considered to be critical of President Jammeh and his government face regular harassment by the police and the NIA. They are frequently arrested, often without a warrant, and detained without charge for longer than the maximum 72-hour period allowed by the Gambian Constitution.

Judicial harassment is common, with journalists frequently put on trial for criminal defamation, publication of “false news” and “sedition”. Prosecution for administrative matters such as tax or nationality papers is also used, sometimes accompanying or replacing press offenses charges.

Journalists are sometimes held for weeks or months pending trial and those trials are often drawn out over months or years. For example, numerous adjournments and jurisdictional quibbles meant the sedition trial in 2007-08 of a prominent US-based freelance journalist and political activist who had criticized President Jammeh took 18 months, during which time she was barred from returning to the USA. Similarly, the appeal of an *Independent* reporter convicted of “publishing false news” on the basis of a March 2006 article on the arrest of a number of alleged coup plotters is still ongoing two and a half years after the case against began. In both these cases, the journalists concerned only escaped a prison sentence by paying heavy fines, covered by the GPU and their families.

Court cases against journalists are often highly politicized and reveal a clear lack of independence on the part of the judiciary. This is well illustrated by two 2009 trials of journalists who criticized President Jammeh, as follows:

- **Trial of *Foroyaa* publisher**

In March 2009, a well known newspaper journalist and publisher (*Foroyaa*), who is also an opposition leader, was detained for over 10 days on charges of “sedition”, “spying” and holding illegal meetings in relation to articles he wrote for *Foroyaa* on the activities of witch doctors from Mali and other West African countries. The witch doctors were allegedly invited to identify witches in certain villages in the Gambia soon after the death of President Jammeh’s aunt, as the President reportedly believed that she had died as a result of witchcraft. According to the articles, those accused of being witches were attacked, detained and forced to “confess”.

After being held for three days, the publisher was granted bail but on such strict conditions that he could not meet them (a sum of 1 million dalasis or around US\$47,600, and three sureties including a former Inspector General of Police and an army officer not below the rank of Brigadier General who must have been retired for at least eight years and live in the jurisdiction of Brikama). He was finally released a week later after the state withdrew all charges, reportedly “in the interest of peace and justice”. He has reportedly been imprisoned many times before.

- **Trial and imprisonment of six Gambia Press Union members**

On 6 August 2009, six journalists for newspapers *Foroyaa* and *The Point* – all members of the GPU, three of them holding executive positions - were found guilty of six counts of sedition and defamation. They were each sentenced to two years in prison for four of the counts and a fine of 250,000 dalasis (around US\$10,000) for the other two counts. If they fail to pay the fine they each face a further four years in prison.

The charges stemmed from *The Point* and *Foroyaa*’s publication on 11 June 2009 of a GPU statement that criticized President Jammeh for making “inappropriate” comments on state television about the unsolved 2004 murder of *The Point* editor and co-founder Deyda Hydara (see above). The GPU statement also called on the President to acknowledge his government’s responsibility for the killing, which the President had denied in another interview a few days earlier.

The six journalists were arrested and detained/ released on bail twice before being brought to trial. The trial itself was held behind closed doors, allegedly for “state security” reasons. While it was ongoing, President Jammeh threatened local journalists, including in a 22 July TV interview where he referred to them as “rat pieces” hiding behind “so-called press freedom” whom the state would “prosecute to the letter.” Such comments are tantamount to interference in the judicial process, and adds to concerns about fair trial.

The journalists have been jailed pending appeal.

## **5. Recommendations**

International PEN, on behalf of the submitting organisations, calls on the Gambian government to:

- Conduct a full and impartial investigation into the unsolved 2004 murder of Deyda Hydara and bring those responsible to justice;
- Free “Chief” Ebrimah Manneh immediately and unconditionally and provide compensation to him and family, in accordance with the June 2008 ECOWAS ruling;
- Free all other journalists imprisoned for the peaceful exercise of their right to freedom of expression and opinion, in particular the six GPU journalists jailed in August 2009 for allegedly defaming President Jammeh;
- Cease all other forms of harassment against journalists, including unlawful arrests and detention and the use of the legal system to impede their work;
- Ensure and respect the impartiality and independence of the judiciary in order to guarantee that journalists and others who are prosecuted for their writings receive a fair trial;
- Repeal legislation that violates the right to freedom of expression, in particular the Criminal Code Amendment Act 2004, and ensure press offences are dealt with by civil rather than criminal courts;
- Ratify the International Convention for Protection of All Persons From Enforced Disappearance and other international instruments that Gambia is not yet a party to;
- Issue invitations to the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the independence of judges and lawyers.