

In its last Universal Periodic Review in February 2010, The Gambia only accepted one recommendation out of 15 concerning civil society, freedom of expression and association, and human rights defenders (HRDs). It rejected all calls to legislatively guarantee freedom of the press and expression, refused to 'bring an immediate end to harassment and intimidation of... journalists' and 'to ensure the protection HRDs against any violence, retaliation, or adverse discriminations'. It merely gave a general response to recommendations calling upon The Gambia to guarantee the free exercise of activities of HRDs, to recognise their legitimacy and to ensure their protection. Restrictive legislation, judicial harassment, defamation, arbitrary arrest, disappearances and impunity mean that HRDs remain at significant risk in The Gambia.

1. Risks facing human rights defenders

- The climate of fear and self-censorship in The Gambia resulting from limited freedom of expression restrict the work of and pose a threat to HRDs and journalists¹ and lead to intimidation of human rights lawyers who are critical of the government.² Lack of independence of the judiciary led to several cases of fabricated charges and lengthy trials against HRDs³ as well as 'arbitrary arrest and detention, intimidation and judicial harassment against journalists'.⁴ In 2012, Imam Baba Leigh, a religious advisor for the Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP), was disappeared and detained incommunicado for almost six months as a consequence of his opposition to the execution of nine inmates.⁵
- HRDs face risks of physical violence, death threats and public intimidation from State actors. In 2009, the Gambian President threatened HRDs with death should they criticise the government, whilst in 2010 the Minister of Justice threatened to persecute expatriate Gambians that criticise the country's human rights records if they ever return home.⁶

2. Official restrictions on the space for human rights defenders

- The legislative framework is very restrictive for the work of journalists: 'the 2004 Newspaper Registration Act, the 2005 Criminal Code Amendment Act, the 2009 Official Secrets Amendment Act and the 2009 Communications Bill contradict constitutional provisions on freedom of expression'.⁷ They form the legal framework for judicial prosecution for charges such as 'false publication' and 'defamation'.
- In July 2013, the National Assembly of The Gambia amended the 2009 Information and Communications Act, stipulating a 15-year jail term and/or a heavy fine for all persons spreading 'false news' – a provision that is used to criminalise and silence those who criticise the government or public officials.⁸
- 'In 2010, the NGOs Affairs Agency was moved from the Interior Ministry to the office of the President, thus increasing the monitoring of civil society. NGO registration is burdensome and includes the mandatory acceptance to conform to government development plans.'⁹

3. Intimidation and reprisals against defenders accessing international human rights mechanisms

- 'Harassment of NGOs monitoring human rights violations was reported. As a result, many NGOs exercise self-censorship and opt to work on less sensitive matters.'¹⁰

4. Human rights defenders facing particular risks

- HRDs working for sexual and reproductive health and the rights of women and children face particular risks. The situation has not improved since 1999, when the President refused to guarantee the safety of activists fighting Female Genital Mutilation (FGM). In her 2010 annual report, the UN Special Rapporteur on Human Rights Defenders expressed her concern that the convictions against Dr Isatou Touray, the director of GAMCOTRAP, and Ms Amie Bojang-Sissoh, the programme coordinator of GAMCOTRAP, may be related to their human rights work in support of sexual and reproductive health and rights of women and children.¹¹
- Journalists, especially those critical of the government, face particular risk in The Gambia. The International Federation for Journalists has expressed grave concern about lack of freedom of expression in the country. Since January 2014, Musa Sheriff, Editor-in-chief of 'The Voice' newspaper, and Sainey M.K. Marenah, a journalist with The Voice, have been detained for publishing an article on 'The Green youths', a group of young supporters of the opposition United Democratic Party (UDP).

5. The response of the State regarding the protection of human rights defenders

- The Gambian Government did not respond to the concerns raised by the UN Special Rapporteur on Human Rights Defenders, Shortly after the report was tabled in the Human Rights Council, however, Dr Isatou Touray and Ms Amie Bojang-Sissoho were released on payment of a substantial bail fee.
- Regarding Imam Baba Leigh, during his disappearance officials refused to reveal his whereabouts. After his release seven months later, the Gambian Minister for Presidential Affairs stated that ‘Imams should discuss religious matters when they are at their religious gatherings, but when you want to comment on politics, you should form your own political party’.¹²
- On New Year’s Day of 2014 the Gambian President announced he would lift bans on the previously criminalised Standard newspaper and Teranga FM. However, IFJ remains ‘concerned by the threats on press freedom in The Gambia’.¹³
- It appears that little is being done to fight impunity of reprisals against journalists. IFJ and the Gambian Press Union urge the Gambian Government to resolve the case of Deyda Hydera, a prominent journalist, assassinated in 2004 and whose killers are still at large.¹⁴
- In March 2013, 38 NGOs mainly from Africa wrote a letter to the African Commission on Human and Peoples’ Rights protesting the worsening human rights situation, particularly concerning HRDs, and urging the ACHPR to reconsider its decision to host its 53rd session in The Gambia. The chairperson of the ACHPR responded that African heads of State are competent to decide where the headquarters of the ACHPR should be and urged NGOs not to boycott the session.¹⁵

6. Recommendations to the Government of The Gambia

- The Gambia should respect its international obligations, including under the UN Declaration on Human Rights Defenders, by ensuring the physical and psychological safety of HRDs, and protecting them from threats, attacks and reprisals.
- The Gambia should develop and enact specific laws and policies to recognise and protect the work of human rights defenders and ensure they can operate in a safe and enabling environment.
- The Gambia should guarantee the swift and thorough investigation and prosecution of all attacks and crimes against HRDs and journalists.
- The Gambia should reform all restrictive laws against HRDs and NGOs in order to ensure the right to freedom of expression and association in accordance with international law. For example, Gambian law should be amended to abolish or lower the amount of members needed to form a trade union to less than 50 members.
- The Gambia should publicly acknowledge the importance and legitimacy of the work of HRDs.
- The Gambia should cooperate fully, promptly and substantively with UN and ACHPR human rights mechanisms.

Two years from the next presidential elections, and with the upcoming UPR in October 2014, the government of The Gambia has the opportunity to create a safer environment for the work of HRDs and journalists, the work of whom is crucial to development, democracy, good governance and the rule of law in the country.

¹Front Line Defenders: <http://www.frontlinedefenders.org/The-Gambia>

²FIDH report: <http://www.fidh.org/en/africa/Gambia/GAMBIA-2010-2011>

³Front Line Defenders: <http://www.frontlinedefenders.org/The-Gambia>

⁴Coalition for Change The Gambia: <http://changeqambia.org/gambian-civil-society-groups-set-to-broadcast-radio-program-to-gambia-and-senegal/>

⁵Civil Society Association Gambia: <http://civilsociety-gambia.org/civil-society-associations-gambia-condemns-arrests-of-amie-bensouda-and-imam-baba-leigh/>

⁶Front Line Defenders: <http://www.frontlinedefenders.org/The-Gambia>

⁷Front Line Defenders: <http://www.frontlinedefenders.org/The-Gambia>

⁸Amnesty International: <http://www.amnesty.org/en/library/asset/AFR27/003/2014/en/b7be4923-882e-4068-871e-c0db7bf16d84/af270032014fr.pdf>

⁹Front Line Defenders: <http://www.frontlinedefenders.org/The-Gambia>

¹⁰Front Line Defenders: <http://www.frontlinedefenders.org/The-Gambia>

¹¹SR Annual Report 2010: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/114/27/PDF/G1111427.pdf?OpenElement>

¹²Front Line Defenders: <http://www.frontlinedefenders.org/The-Gambia>

¹³IFJ: <http://africa.ifj.org/en/articles/ifj-calls-on-the-gambia-to-release-two-journalists>

¹⁴IFJ: <http://africa.ifj.org/en/articles/impunity-must-end-in-the-gambia-ifj-says>

¹⁵<http://dailynews.gm/africa/gambia/article/protest-against-holding-sessions-of-the-african-commission-on-human-and-peoples-rights-achpr-in-the>