



Submission to the UN Universal Periodic Review

20th Session of the UPR Working Group

The Gambia

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**Joint Submission by CIVICUS: World Alliance for Citizen Participation, NGO in
General Consultative Status with ECOSOC**

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1. (A) Introduction

- 1.1 CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizen's freedom of association are threatened.
- 1.2 During its initial examination at the 7th session of the UN Universal Periodic Review (UPR), the Gambian government accepted 68 recommendations including those aimed specifically at removing unwarranted restrictions on the freedoms of expression, association and assembly and the legitimate work of human rights defenders and journalists. The government committed to investigating and holding the National Intelligence Agency (NIA), police and army responsible for torture, unlawful arrests and detention of journalists and human rights defenders.¹ In addition, the government agreed to engage further with Special Procedures and Mandate Holders to ensure that the state of human rights in the country is improved upon. However, four years after its initial review and adoption of the recommendations, violations of human rights persist in the Gambia.
- 1.3 CIVICUS expresses concern about the environment in which civil society activists and human rights defenders operate in the Gambia and discuss threats they face in the exercise of their fundamental rights. The harassment and persecution of civil society activists and human rights defenders has led to self-censorship while a number of activists have fled the country to avoid persecution. Prominent human rights organisations ceased operating because of restrictions imposed by the government and to avoid government reprisals as a result of their legitimate work.
- 1.4 CIVICUS is concerned about judicial persecution, arrests and detention of journalists and dissenters for simply expressing their rights of freedom of expression and opinion. Newspapers have occasionally been suspended and ordered to cease publication for writing stories critical of government practices. While some journalists and media representatives have resorted to self-censorship, others have fled the country to avoid persecution. Restrictive amendments have been made to existing legislation which further curtail freedom of expression and impose harsher penalties for those who are perceived to have violated these laws.
- In section B, CIVICUS expresses concerns regarding judicial persecution and harassment of civil society activists and human rights defenders.
 - In section C, CIVICUS highlights concerns regarding restrictive legislation which impede freedom of expression and online freedoms.

¹ "Responses to recommendations: Gambia," *UPR Info*, http://www.upr-info.org/IMG/pdf/recommendations_to_gambia_2010.pdf, accessed, 7 March 2014.

- In section D, CIVICUS expresses concerns regarding restrictions on freedom of expression, arbitrary arrests and detention of journalists, and the closure of independent newspapers.
- In section E, CIVICUS makes a number of recommendations in the areas of concerns listed.

2. (B) Concerns regarding judicial persecution and harassment of civil society activists and human rights defenders.

- 2.1** Article 12 of the United Nations Declaration on Human Rights mandates member states to take necessary measures to protect human rights defenders. Chapter 3, Section 17 (2) of the Gambian Constitution guarantees the protection of the human rights of all Gambians. However, it is a matter of deep concern that human rights defenders are subjected to judicial persecution and harassment as a result of their work to improve the state of human rights in the Gambia.
- 2.2** On 3 December 2012, human rights defender and outspoken critic of the death penalty Imam Baba Leigh was arrested at his home by agents of the NIA and detained after criticising the government's decision to execute 9 inmates. Baba Leigh is a founding member and religious advisor to the Civil Society Organisation (CSO), the Gambian Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP). Following his arrest, the authorities refused to disclose his whereabouts and he was denied access to legal representation and his family.² Moreover prior to his arrest, he had indicated that he received threatening phone calls at night from anonymous sources. Imam Baba Leigh was released from detention on 10 May 2013.
- 2.3** On 7 June 2011, Amadou Scattred Janneh, National Coordinator of CSO, Coalition for Change-Gambia (CCG) was arrested after printing and distributing T-shirts emblazoned with "end dictatorship now." Amadou was accused of "conspiring with others to overthrow the government by unlawful means" and charged with treason and sedition for contravening Sections 35 (1) (a) and 52 (1) (a) of the Gambia's Criminal Code.³ In January 2012, he was found guilty of treason and sentenced to life in prison with hard labour by the Special Criminal Court in Banjul.⁴ He was arrested alongside three other activists - Modou Keita, Ebrima Jallow and Michael Uche Thomas who were each sentenced to three years in prison for sedition. All four activists were prisoners of conscience arrested for peacefully exercising their rights to expression and assembly. Michael Uche later died in detention due to ill

² Imam Baba Leigh narrates his Gambia ordeal, *Jollof News*, <http://www.jollofnews.com/news/24-news/3983-imam-baba-leigh-narrates-his-gambia-ordeal>, accessed 12 March 2014.

³ "Fresh Charges for Scattred Janneh and Co Ndey Tapha Sosseh, two others included," *Daily Observer*, <http://observer.gm/africa/gambia/article/fresh-charges-for-scattred-janneh-co-ndey-tapha-sosseh-two-others-included>, Accessed 4 March 2014.

⁴ "The Gambia: the reluctant but willing warrior paradox: Dr. Amadou Scattred Janneh," *The Gambia Voice*, <http://thegambiavoice.blogspot.com/2011/11/gambia-reluctant-but-willing-warrior.html>, accessed 11 March 2014.

health and lack of adequate medical assistance.⁵ In September and October 2012 respectively, Janneh and Modou Keita were granted presidential pardons. .

- 2.4** On 30 December 2010 human rights lawyer Moses Richards was arrested and detained by agents of the NIA in Banjul on charges of providing false information and sedition. He was denied bail on 31 December 2010 and on 2 January 2011 he was transferred to Mile 2 Central Prison without a court order.⁶ He was released on bail of 500 Dalasis (approximately US \$ 15) by the Banjul Lower Court on 3 January 2011. He was persecuted for his human rights activities, particularly his defence of human rights activists in politically sensitive cases.
- 2.5** On 11 October 2010, Isatou Touray and Amie Bojang-Sissoho, Director and Programme Coordinator respectively of GAMCOTRAP, a human rights NGO which focuses on the rights of women and children were detained at the Central Prison in Mile 2 on charges of embezzling 30.000 Euros donated by a Spanish development organisation Yolocamba Solidaridad in 2009. They were both released on bail of 1.5 million Dalasis (approximately US \$ 39000) on 20 October 2010. On 31 January 2011, Begona Ballestros Sanchez the head of Yolocamba Solidaridad stated that she was not aware of the embezzlement of any funds from her NGO.⁷ On 12 November 2012, after more than two years of judicial harassment, the Banjul Magistrates Court dropped all charges against Isatou and Amie.
- 2.6** On 22 February 2010, Edward Nebolisa Nwakaeme head of the CSO, Africa for Democracy and Human Rights was arrested on charges of providing false information about the nature of the activities of his organisation when registering it. He was detained for three days and released on 25 February 2010. He was rearrested on 1 March and handed a six month jail sentence on charges of providing incorrect information to public officials and fined 10.000 Dalasis (approximately US \$ 260) and banned from operating the NGO. He completed his jail term on 14 January 2011 and was deported back to his native Nigeria.

3. (D) Concerns regarding restrictive legislation which impede freedom of expression and the media

- 3.1** On 3 July 2013, Gambia's National Assembly approved amendments to the country's Information and Communications Act (2009) by imposing hefty fines and prison sentences to those found guilty of "inciting dissatisfaction," or "making derogatory statements against government officials." The amendments are aimed at criminalising the legitimate exercise of freedom of expression and have a chilling effect on the efforts of the media to criticise

⁵ "Amnesty renders damning verdict on Jammeh regime," *The Gambian Echo*, <http://thegambiaechos.com/index.php/permalink/3907.html>, accessed, 4 March 2014.

⁶ "GBA condemns Moses Richards persecution," *The Point*, <http://thepoint.gm/africa/gambia/article/gba-condemns-moses-richards-prosecution>, accessed 20 February 2014.

⁷ London letter: free Dr. Touray and Mrs. Sissoho, say Spanish," *Jollof News*, <http://www.jollofnews.com/editors-corner/1334-london-letter-free-dr-touray-and-mrs-sissoho-say-spanish>, accessed 11 February 2014.

government's actions. The amendments further stipulate that individuals accused of circulating "false information" could face up to 15 years in jail or pay a fine of 3 million Dalasis (approximately US\$ 87,000) if found guilty.

3.2 The amended Information and Communications Act can be used to specifically target bloggers, online activists and social media outlets as Section 173A proscribes similar sanctions for persons who "use the internet to spread false news against the government or public officials." By targeting online freedoms, the government aims to restrict the only free space available in the country for citizens to express their opinions. The application of this law can be invoked to target both citizens resident in the country and those abroad. According to the Act, individuals who "caricature or make derogatory statements about public officials," face the same penalties if found guilty. Gambia's Minister of Communications justified the decision taken by the National Assembly by stating that it is aimed at punishing those who promote "unpatriotic behaviour" and who engage in "treacherous" campaigns against the state. The amendments come on the heels of a revision of the country's Criminal Code which runs contrary to international standards of freedom of expression.

3.3 On 16 April 2013, the National Assembly made amendments to Section 114 of the Criminal Code also known as the Principal Act which increased penalties for those found guilty of providing "false information" to a public servant or state authority. Individuals found guilty of providing "false information" stand to pay a fine of 50,000 Dalasis (US \$ 1300) or sentenced to five years in prison. Before the amendments, those found guilty of the same offence were required to pay 500 Dalasis (US \$ 15) or face 6 months in jail. These amendments have been used to undermine the fundamental rights of Gambians and impose stricter penalties on those who exercise their right to freedom of expression.

4. (C) Concerns regarding restrictions on freedom of expression and attacks on journalists and the media

4.1 Chapter III Article 25 (10) (a) of the Constitution of Gambia provides for the right to freedom of expression and media. Article 19 of the International Covenant on Civil and Political Rights which the Gambia has ratified provides for the freedom of expression and opinion. In addition, Article 9 of the African Charter on Human and People's Rights guarantees freedom of expression and states that "every individual shall have the right to express and disseminate his opinions within the law." Contrary to constitutional provisions and international and regional human rights standards, the Gambian government imposes administrative restrictions on independent media outlets, arrests intimidate and harasses journalists in an effort to silence them. The targeting of journalists and representatives of the media has led to self-censorship and some journalists have fled the country to avoid persecution by

the government. Independent newspapers, have on several occasions, been closed and suspended as a result of their critical reporting.

- 4.2** On 13 January 2014, Musa Sheriff and Sainey Marenah of *The Voices* newspaper were arrested and charged with publishing false information in relation to a news report which highlighted the fact that 19 members of the ruling Alliance for Patriotic Reorientation and Construction party (APRC) had defected to the opposition United Democratic Party (UDP). The article was featured in the 19 December 2013 edition of the paper. Both journalists were charged with publishing false news “with the intention to cause fear and alarm to the public” and “conspiracy to commit felony.”⁸ They were both released on bail of 20000 Dalasis (approximately US \$520) on 16 January and face up to two years in prison and a fine of 250000 Dalasis (approximately US\$ 6480) if they are convicted.
- 4.3** On 15 September 2013, journalist and television broadcaster Fatou Camara was arrested by officers from the NIA and detained for three weeks. She was charged with giving false information to an international media agency with the intention of triggering dissatisfaction in The Gambia and smearing the image of the president and his government.⁹ The accusations stemmed from information about the president which featured in the Freedom Newspaper, an online news platform based in the United States. Fatou was granted bail of 5000000 Dalasis (approximately US \$ 130000) and later fled the country to avoid persecution.
- 4.4** On 7 September 2012, Babouccar Ceesay who works for the Daily News, and who served as the First Vice President of the Gambian Press Union (GPU) and freelance journalist Abubacarr Saidykan were arrested after seeking permission to hold a peaceful demonstration against the executions of inmates in August 2012. The two journalists had handed over a letter to the Police on 6 September asking for permission to hold a demonstration on 7 September.¹⁰ They were charged on 10 September with conspiracy and the incitement of violence. On 13 November 2012 Abubacarr received verbal threats outside his home and was told to heed warnings about his journalistic activities. On 23 October 2012, the charges were dropped. However Babouccar has since received threatening emails accusing him of attempting to destroy the image of the government.

⁸ “Trial opens for two journalists with amended charge,” *The Point Newspaper*, <http://thepoint.gm/africa/gambia/article/trial-opens-of-two-journalists-with-amended-charge>, accessed 7 March 2014.

⁹ “GRTS’ Fatou Camara speaks out,” *Jollof News*, <http://www.jollofnews.com/news/24-news/3977-grts-fatou-camara-speaks>, accessed 11 March 2014.

¹⁰ “Additional charge against journalist Baboucarr Ceesay,” *The Point*, <http://thepoint.gm/africa/gambia/article/additional-charge-against-journalist-baboucarr-ceesay>, access 7 March 2-14.

- 4.5** On 14 August 2012, state security agents stormed the premises of Teranga FM and closed the independent broadcaster down without explanation. They requested the names and contact details of members of the station's Board of Directors. The station had recently broadcast an interview with Omar Jallow, a member of one of the opposition parties. In January 2011, the station was closed for one month for broadcasting content in local languages derived from the country's newspapers. The Gambian president in his New later ordered the ban to be lifted.
- 4.6** On 20 June 2012, Abdul Hamid-Adiamoh editor of *Today Newspaper* was arrested and charged with contempt of court for an article he published which highlighted errors in the cross examination of Professor Kah, Vice Chancellor of the University of the Gambia. He was detained for a week, convicted of contempt of court charge and fined 100.000 Dalasi (approximately US \$2600) or serve a 6 month jail term accompanied by hard labour. In January 2012, Mamadou S. Jallow of Daily News was arrested by Police in Bansang in Central River region and jailed on charges of "criminal defamation" following the publication of an article about a local Chief – Mamadou Lamin Baldeh.¹¹
- 4.7** On 14 September 2011, officers from the NIA stormed the offices of the *Daily News* and *Standard Newspapers* and ordered them to stop publication. The agents told staff of the newspapers that they were following orders from the President but did not provide reasons why they carried out the order. Prior to the raid, the newspapers had reported on the executions of 9 inmates in August 2011.
- 4.8** On 27 June 2011, Ahmed Alota, Director of the Gambia Press Union (GPU) was arrested and detained by the police after transmitting a skype message by GPU's exiled former president - Ndeh Tapha Sosseh during the Union's Congress. He was summoned for questioning by security agents and grilled about sources of funding for GPU, its partners, GPU congress and connections between the GPU and CSO, Coalition for Change. In a related case of harassment, Madi S. Njie Secretary General of the GPU was arrested in July 2011 and interrogated and detained about a news item on the arrest of Alota that was transmitted to the Media Foundation for West Africa. Both Alota and Njie were later released without charges.

5. (E) Recommendations to the Government of the Gambia

CIVICUS urges the Gambian Government to create an enabling environment for civil society to operate in accordance with the rights enshrined in the African Charter on Human and Peoples Rights, the International Covenant on Civil and Political Rights and the UN Declaration on Human Rights. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right

¹¹ "Journalist charged for 'defaming' lower Fulladou Chief," *The Point Newspaper* <http://thepoint.gm/africa/gambia/article/journalist-charged-for-defaming-lower-fulladou-chief>, accessed 12 March 2014.

to communicate and cooperate and the state's duty to protect. In light of this, the following specific recommendations are made.

5.1 Regarding judicial persecution and harassment of civil society activists and human rights defenders

- All human rights defenders and civil society activists detained for exercising their freedom of opinion should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.
- Provide a safe and secure environment for human rights defenders and civil society to enable them to carry out their work without fear of intimidation or harassment. All instances of violations of their rights should be independently investigated.
- All due process in accordance with Article 14 of the ICCPR should be followed for all detained persons including representatives of civil society.
- Remove restrictions that prevent human rights defenders from submitting information on violations of human rights by government representatives and state-owned organisations to human rights bodies.

5.2 Concerns regarding restrictive legislation which impede freedom of expression and the media

- Repeal Section 173 (A) of the Information and Communications Act and Section 114 of the Criminal Code and eliminate all sanctions for alleged violators of the Acts.
- Financial penalties for civil society organisations and activists found in violation of the Information and Communications Act and Criminal Code should be removed.
- Constitutional provisions protecting freedom of expression, assembly and association of citizens should be respected at all times.

5.3 Concerns regarding restrictions on freedom of expression and attacks on journalists and the media

- The government should create an enabling environment for independent media by reinstating all newspapers forced to close and release all journalists in detention.
- Attacks on and threats to Journalists and dissenters should be publicly condemned by senior government officials to ensure protection by law enforcement agencies.
- All cases of arbitrary arrests and detention should be fully investigated and the perpetrators should be brought to justice.

- Threats to journalists and representatives of the media should be adequately investigated and those found guilty of issuing such threats brought to justice.

5.4 Regarding access to UN Special Procedures and Mandate Holders

- A standing invitation should be extended to the UN Special Procedures, particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression, and Special Rapporteur on Freedom of Peaceful Assembly and Association.