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PROPOSED HUMAN RIGHTS PRIORITIES TO THE GAMBIAN GOVERNMENT

1. ENSURE THE RIGHT TO FREEDOM OF EXPRESSION

- a) Urgently repeal and bring in conformity with international and regional human rights obligations impermissible restrictive laws on the right to freedom of expression. These include “spreading false information” (sections 59 and 181A) and “giving false information to a public servant” (section 114) in the Criminal Code.
- b) Remove the broad powers given to national security agencies to “monitor, intercept and store communications” under the Information and Communications Act 2009 (section 138) and introduce necessary safeguards such as being subject to judicial oversight and the possibility to effectively challenge the lawfulness of these measures before a court; and generally, uphold the rights to privacy and freedom of expression.

2. ENSURE THE RIGHT TO FREEDOM OF ASSEMBLY

- a) Repeal and bring in conformity with international and regional human rights obligations impermissible restrictive laws on the rights to freedom of peaceful assembly and association, including the offence of holding a procession without a permit under the Public Order Act (s 5(5)(a) and (b) and the offence of unlawful assembly under the Criminal Code (section 69);
- b) Amend the NGO Decree, which still has draconian provisions, to meet international standards on freedom of association and peaceful assembly.
- c) Publicly instruct the security forces to avoid the use of excessive force to disperse peaceful gatherings, even where the police believe that the organizers have not complied with the Public Order Act’s requirement to obtain a permit.

3. END ARBITRARY ARREST, DETENTION, TORTURE AND OTHER ILL-TREATMENT

- a) Publicly instruct the Anti-Crime Unit of the Gambia Police Force, army and the State Intelligence Services (SIS) to end unlawful arrests and detention, and in particular not to detain people beyond the 72-hour period as provided in Gambia's Constitution of 1997;
- b) Ensure that torture and other ill-treatment is established as an offence in national law and adopt a definition of torture that includes all the elements contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Gambia. Ensure that such offences are properly and effectively investigated and made punishable by appropriate penalties which take into account their grave nature;
- c) Improve the conditions in prison facilities, such as Mile 2, Jeshwang and Janjanbureh, and reform relevant legislation in line with international standards, in particular the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules);
- d) Implement alternative measures to imprisonment for female offenders wherever possible, especially for women who are pregnant or have dependents, and ensure female inmates are protected from all forms of gender-based violence;
- e) Train law enforcement officials, military personnel and prison authorities in international human rights law to ensure that national procedures are compliant and that preventive measures to eliminate torture and other ill-treatment are integrated into their respective working methods;
- f) Establish an independent police complaints commission to strengthen police accountability.

4. STRENGTHEN THE JUSTICE SYSTEM

- a) Reform and improve the National Agency for Legal Aid (NALA) so that it has a robust mandate to operate independently and ensure a sufficient number of qualified lawyers and paralegals that can provide essential services to persons, particularly vulnerable and disadvantaged groups, through all stages of criminal proceedings. Provide necessary support to other civil society organizations providing legal aid and advice, such as the Gambia Bar Association and Female Lawyers Association Gambia, in order to strengthen and improve access to justice;
- b) Strengthen the office of the Director of Public Prosecutions, including by ensuring adequate human and financial resources, in order to ensure that its activities meet international standards on fair trials;
- c) Design a comprehensive judicial policy to identify and eliminate the barriers faced by women and girls in gaining access to justice, provide adequate resources to ensure effective implementation of the policy, including legal aid, and set up a mechanism to monitor its implementation;

d) Expedite the operationalization of the National Human Rights Commission and ensure it can function in an effective and independent manner, with adequate resources, in line with the Principles relating to the Status of National Institutions (The Paris Principles).

5. FOLLOW-UP ON COMMITMENT TO ABOLISH THE DEATH PENALTY

The authorities publicly spoke about getting rid of the death penalty in the country's future constitution and has gone further to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty in September 2018. However, these important steps have been seriously undermined by the fact that at least three people were sentenced to death in 2018. The Gambian authorities should follow up on its commitments including the ratification of the Second Protocol by:

- a) Implementing laws that abolish the death penalty for all crimes without delay;
- b) Commuting all death sentences to terms of imprisonment.

6. PROTECT AND PROMOTE WOMEN AND GIRLS' RIGHTS

- a) Harmonize national legislation, including the Constitution, the Women's Act and personal laws (sharia law and customary law), by repealing all discriminatory provisions to ensure that women and girls enjoy the same rights as men in all areas of life;
- b) Repeal article 33 (5) (c) of the Constitution, which provides that the prohibition of discrimination does not apply in respect of adoption, marriage, divorce, burial and devolution of property upon death;
- c) Effectively implement section 15 (1) of the Women's Act and increase significantly the use of temporary special measures, including quotas, to ensure women's equal representation in political and public life and any other relevant areas in which women are underrepresented or disadvantaged, such as in education, health and employment;
- d) Effectively implement the Domestic Violence Act and the Sexual Offences Act by adopting the necessary regulations and guidelines, reinforcing reporting mechanisms, allocating adequate resources and strengthening the Victims of Violence Advisory Committee;
- e) Ensure that sex workers have equal access to justice, health care and other public services, and to equal protection under the law, including legal protections against exploitation, harassment and violence;
- f) Amend legislation to decriminalize abortion, removing all punitive measures both to women and girls, and health providers, expand the grounds for legal abortion to cases of rape, incest and severe and fatal foetal impairment, and ensure the availability of safe abortion services and post-abortion care without any barriers.

7. ENSURE NON-DISCRIMINATION

- a) Adopt comprehensive anti-discrimination legislation, in particular prohibiting discrimination on the basis of religion, gender, disability, sexual orientation, ethnicity or tribe and repeal any discriminatory laws;
- b) Ensure that all individuals are protected from harassment or violence by state and non-state actors, regardless of their religion, gender, disability, sexual orientation, ethnicity or tribe.
- c) Ensure that the Draft Disability Bill is enacted into law to enhance disability rights.

8. PROTECT AND PROMOTE ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- a) Develop and adequately resource national plans to fully realize the rights to education, health, food, water, housing and sanitation for all, and ensure that everyone has access to the minimum, essential levels of these rights;
- b) Formulate and implement an employment policy with a view to overcome unemployment and underemployment, particularly among women and youth;
- c) Take steps to ensure that all persons, particularly those in rural areas, women and girls, have access to quality health information, goods, and services, including by allocating increased resources to the health sector, training of health extension workers and ensuring provision of adequate and quality medical equipment and supplies to health facilities;
- d) Reduce the high rate of maternal and infant mortality, including by ensuring the availability of comprehensive sexual, reproductive, and child health services, and that all births are assisted by a skilled birth attendant.

9. FULLY COMPLY WITH INTERNATIONAL AND REGIONAL HUMAN RIGHTS OBLIGATIONS

- a) Fully implement the recommendations made by other UN member states, and accepted by Gambia, during Gambia's Universal Periodic Review (UPR) process in 2015. Consider accepting those recommendations that had been rejected by the previous government;
- b) Fully and effectively implement the recommendations made by UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the UN Special Rapporteur on extrajudicial executions;
- c) Ratify outstanding human rights treaties, including the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and other similar treaties;
- d) Extend a standing invitation to all thematic special procedures of the United Nations Human Rights Council and the African Commission on Human and Peoples' Rights.
- e) In considering whether or not to sign or ratify the Malabo Protocol, carefully study and take note of its institutional and legal implications, and support amendments to ensure

provisions on immunities meet international standards (46A *bis*), definitions relating to terrorism are more precise (28G) and a full range of civil society organizations and individuals can access the court (30F).

10. END IMPUNITY FOR HUMAN RIGHTS VIOLATIONS

- a) Investigate and prosecute government officials and members of the security services and paramilitary groups implicated in human rights violations, in accordance with international fair trial standards. A prosecutorial strategy under the Ministry of Justice should be developed, after consultations with various civil society and victim groups and learnings from other countries, to determine the type of crimes and individuals who will be the focus of investigations;
- b) Publicly instruct all security forces to suspend from active duty any officer reasonably suspected of involvement in human rights violations, including excessive use of force, arbitrary arrests and torture and other ill-treatment, until the allegations against them have been independently, thoroughly, impartially and transparently investigated;
- c) Ensure international fair trial standards for all current and future prosecutions. For example, defense rights should be strengthened and programmes put in place for witness protection, including special measures for victims of sexual violence. Consider seeking international technical support where necessary, including forensic expertise;
- d) In accordance with international law, there should be no amnesties or pardons for crimes under international law;
- e) Remove Article 69 of the Constitution (Immunity from civil and criminal proceedings) and repeal the Indemnity (Amendment) Act 2001 which conflicts with Gambia's obligations under international human rights law;
- f) Guarantee victims' participation during the ongoing TRRC process or in any judicial and further engage the views of victim groups concerning possible forms of reparation. These could include tailored compensation, medical and psychological rehabilitation, establishing victim centered memorials and/or a public apology to victims who suffered human rights violations;
- g) Develop a clear outreach and communications strategy and engage with civil society and victim groups so the public are fully aware of any transitional justice processes and understand the government's strategy and limitations.
- h) Repeal draconian provisions that remain in the laws and constitution among which include – Section 69 on immunity from civil or criminal proceedings for the president, or Sections 11, 13 and 14 of the Second Schedule of the Constitution that gives blanket immunity to members of the Armed Forces Ruling Council, the military regime that ruled from 1994 to 1996, for the decisions and actions they took during that period.