

EXECUTIVE SUMMARY

In December 2016, Gambia holds Presidential elections amid serious violations of the rights of opposition members, journalists, human rights defenders, civil society organizations and voters to express themselves freely and without fear of reprisal. Gambia's actions put it in clear contravention of its treaty obligations as a member of the Economic Community of West African States (ECOWAS) and the African Union (AU), and its obligations under international law.

The cost of dissent in Gambia came into sharp focus most recently when, in April and May 2016, Gambian security forces arbitrarily arrested and beat up dozens of members of the United Democratic Party (UDP), including its leader Ousainou Darboe, as well as supporters and bystanders who were peacefully protesting. Fifty-one people are currently on trial, and one man – Solo Sandeng, the UDP National Organizing Secretary – died in custody following torture at the National Intelligence Agency (NIA). Others were also seriously injured and tortured at the NIA, while at least 36 people arrested at a protest on 9 May 2016 are currently detained without charge.

Widespread condemnations of these acts of repression, including from the United Nations (UN), African Commission on Human and Peoples' Rights (ACHPR), ECOWAS, the USA and European Union (EU) shone a spotlight on the restrictive human rights context ahead of Gambia's elections, yet other serious human rights violations committed in recent months are less well known.

In February 2015, for example, Sheriff Dibba, leader of the Gambian National Transport Control Association (GNTCA), also died in custody and his association was prohibited by a Presidential Order. In October 2015, Imam Sawaneh was arrested, and has now been held in incommunicado detention for more than eight months, after he peacefully presented a petition to Gambia's State House. In July 2015, the managing director of an independent radio station, Alagie Ceesay, was arrested for sharing a photo through WhatsApp and detained for nine months before he escaped from hospital.

Such violations are unfortunately not new, including in periods ahead of elections. In 2011 ECOWAS refused to monitor that year's Presidential elections due to "intimidation, an unacceptable level of control of the electronic media by the party in power, the lack of neutrality of state and para-statal institutions, and an opposition and electorate cowed by repression and intimidation." The Commonwealth Expert Team monitoring the elections noted several serious concerns such as media harassment and the use of repressive laws to restrict political space.

This report seeks to analyze patterns of human rights violations in Gambia since the last Presidential elections in November 2011. Amnesty International has been monitoring the human rights situation in Gambia for over a decade, and interviewed 127 people since January 2015 for this report. These included victims and witnesses of human rights violations, opposition members, journalists in Gambia and in exile, human rights defenders and civil society organizations. The organization also wrote to, and followed up with, the Gambian authorities to present preliminary findings and to request meetings, but no response was received.

The findings are clear. Space for freedom of expression for the media was limited even before the 2011 elections, but has closed even further since. New laws introduced in 2013 have aimed to repress dissent on the internet by imposing penalties for criticizing government officials online, including for those who

spread “false news” about the government or public officials. The use of archaic colonial-era laws such as sedition has also been used to stifle dissent. Media outlets critical of the government face harassment and censorship, and in the last five years three independent media outlets have been closed down for durations of 15 months. One of those outlets, Teranga FM, was closed down three times, and its managing director was also arrested three times, during that period. In such a climate journalists do not feel free to write positively about the opposition or to criticize the government whilst in Gambia, and many feel forced to flee the country. The Doha Centre for Media Freedom estimates, for example, that 110 journalists have gone into exile since President Jammeh came to power in 1994. There are about 200 practising journalists in Gambia at present.

Opposition groups also still face major restrictions on their assemblies and activities, and the Public Order Act has been applied in a selective way to restrict public gatherings of a political nature. A brief relaxation of restrictions on organizing gatherings of political parties between April 2015 and April 2016 was short lived, and met a brutal end with the arbitrary arrests and death in custody outlined above. The imprisonment of three UDP members in December 2013, including national treasurer Amadou Sanneh who was tortured to extract a confession, also provides a deterrent to those who would consider engaging in opposition party activities.

Civil society also continues to be curtailed, and a long history of targeting human rights defenders with arbitrary arrests, detentions and threats has left groups and individuals reluctant to speak out about sensitive human rights issues. The case of Imam Sawaneh and other Imams outlined in the report show that religious leaders who are perceived to challenge the government receive the same treatment. The Government has still not complied with an order by the High Court in Banjul in March 2016 calling for Imam Sawaneh’s release.

Consistent patterns of violations against opposition members, journalists and human rights defenders have created a broader climate of fear that extends to other sections of society, in which the dominant response is one of self-censorship. This is underpinned by the failure of authorities to respect legal safeguards, leading to practices of arbitrary arrests, incommunicado detentions and torture. Indeed, the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment wrote in 2015 that the practice of torture was “prevalent and routine” and the police “arrest to investigate, rather than investigate to arrest”. Even Government ministers and senior officials do not escape these violations, as the continued incommunicado detention of former Deputy Minister of Agriculture, Ousman Jammeh, demonstrates.

The widespread practice of unlawful surveillance by agents of the NIA and police also contributes to self-censorship and fear. The Information and Communications Act gives broad powers to national security agencies to “monitor, intercept and store communications” without requiring any judicial authorization or oversight. Sources at the NIA and telecommunications companies confirm that the NIA and police regularly obtain printouts of phone records from telecommunications companies of people who they are interested in, without legal documentation. NIA agents and police routinely require people who are arrested to provide passwords to their emails, social media accounts and phones, and often obtain these through the use or threat of torture and other ill-treatment.

As a state party to the ECOWAS Protocol on Democracy and Good Governance, the African Charter on Human and Peoples’ Rights (the African Charter) and the International Covenant on Civil and Political Right (ICCPR), Gambia is obliged to respect, promote, protect and fulfil a range of human rights in the context of elections and beyond. Yet this report demonstrates how Gambia has not only violated its obligations under these treaties, but has also shown a complete lack of willingness to co-operate with the bodies mandated to monitor and implement them.

Gambia's failure to co-operate with regional and international human rights mechanisms includes refusing to implement three separate legally binding judgements by the ECOWAS Community Court of Justice regarding the torture, enforced disappearance and murder of journalists. Gambia has also failed to comply with resolutions of the ACHPR, and has 11 outstanding periodic reports to the body, despite its headquarters being based in Banjul. Gambian authorities also prevented two UN Special Rapporteurs from visiting the high-security wing of Mile 2 prison to investigate allegations of torture, and rejected dozens of recommendations on key human rights issues during its last UN Universal Periodic Review (UPR).

Given such a consistent pattern of human rights violations, as well as a failure to respect its obligations under international law and regional treaties, there is a clear and urgent need for serious reform, including ahead of December's elections, to ensure that all Gambians are able to express themselves freely and without fear. Measures that the Gambian authorities should take include:

- The release of all prisoners of conscience, those detained solely for exercising their rights to freedom of expression. This should include those arrested during the opposition protests in April and May 2016, Imam Sawaneh detained incommunicado since October 2015, and the three UDP members imprisoned since 2013.
- A public commitment that the authorities will ensure that all Gambians, including journalists, opposition leaders, real or perceived government opponents, human rights defenders and civil society organizations, are able to fully exercise their rights to freedom of expression, peaceful assembly and association without fear of arrest, detention, intimidation or harassment.
- The repeal or reform of laws restricting the rights to freedom of expression, peaceful assembly and association. These include the offences of sedition, criminal libel and "spreading false information" in the Criminal Code; the censorship of online expression in the Information and Communication Act of 2013; the broad surveillance powers provided under the Information and Communications Act 2009; and the restrictive provisions of the Public Order Act.
- The full and effective implementation of the outstanding judgements of the ECOWAS Community Court of Justice relating to the cases of journalists Deyda Hydara, Ebrima Manneh, and Musa Saïdykhan.
- Effective measures to end practices of arbitrary arrest and detention, torture and other ill-treatment, including allowing regular independent monitoring visits to all detention sites.

Amnesty International also urges the international community, including Gambia's regional partners in ECOWAS and the AU, to consider stronger measures if Gambia does not make significant progress towards meeting its human rights obligations under international law and as a member of ECOWAS and the AU.

In particular:

- ECOWAS should consider the use of the sanctions available under Article 45 (2) of the ECOWAS Protocol on Democracy and Good Governance, and Article 77(iv) of the ECOWAS Revised Treaty, including the suspension of Gambia from all ECOWAS decision-making bodies;
- ECOWAS and the AU should establish a joint Independent Commission of Inquiry into the arrests and torture and other ill-treatment of protesters, including UDP members, between April-May 2016;
- ECOWAS, the AU and other members of the international community should ensure any election monitors deployed before and during the 2016 elections include a mandate to document and report on human rights violations;

- Donor countries should review international assistance, specifically with respect to the security and justice sectors, to ensure that such assistance is not contributing to human rights violations.