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Gambia: Deteriorating human rights situation and lack of cooperation with UN mechanisms

Human Rights Council adopts Universal Periodic Review outcome on Gambia

Since Gambia's Universal Periodic Review last October, the human rights situation in the country has further deteriorated.

After the failed alleged coup attempt on 30 December 2014, at least 30 persons - relatives of the alleged coup makers – have been held in incommunicado detention without charge.¹ This is despite Gambia's assurances during the review that detained persons must be brought before a court within 72 hours.² Amnesty International calls on Gambia to comply with the African Commission resolution to invite a fact-finding mission to the country.³

During the review, several states urged Gambia to facilitate visits requested by the Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions.⁴ However, during their visit to Gambia last November, the government denied them unrestricted access to prisons.⁵ It is disappointing that Gambia has not accepted recommendations to fully comply with the UN Special Procedures.⁶

Amnesty International frequently receives reports of torture and other ill-treatment against human rights defenders, journalists and political opponents and urges Gambia to implement recommendations to investigate all complaints of torture and ill-treatment and to adopt necessary measures to prevent and sanction such practices.⁷ It is disappointing that Gambia has not accepted the 13 recommendations to ratify the Convention against Torture and Other

¹ Gambia: Charge or release family members of alleged failed coup plotters, available at: <https://www.amnesty.org/en/articles/news/2015/01/gambia-charge-or-release-family-members-alleged-failedcoup-plotters/>

² Report of the Working Group on the Universal Periodic Review: Gambia 2014, A/HRC/28/6 para 18

³ African Commission on Human and People's Rights Resolution (299) on the Human Rights Situation in the Republic of The Gambia, 28 February 2015.

⁴ A/HRC/28/6 para 109.94 (Mexico) and 109.95 (Denmark).

⁵ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mission to the Gambia, 2 March 2015 A/HRC/28/68/Add.4, para 3.

⁶ Responses to the Recommendations Given to The Gambia during the 20 Session of the UPR, 19 March 2015, para 27 & 28 available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session20/GM/A_HRC_28_6_Add.1_Gambia_E.doc. In para 54, Gambia also rejected the recommendation to allow the UN unfettered access to complete its investigation of the death of journalist Deyda Hyndara in 2004 and the disappearance of journalist Ebrima Manneh in 2006.

⁷ A/HRC/28/6 para 109.110 (Spain), 109.145 (United Kingdom), 109.9 (Indonesia), 109.10 (Gabon), 109.11 (Portugal), 109.12 (Tunisia), 109.13 (Ghana), 109.14 (Mali), 109.15 (Sierra Leone), 109.16 (Denmark), 109.17 (Togo), 109.18 (France), 109.19 (Uruguay), 109.20 (Australia), 109.21 (Botswana). In Responses to the Recommendations Given to The Gambia during the 20 Session of the UPR, 19 March 2015, para 34, recommendations 109.110 (Spain) is accepted "Investigate all complaints of torture and adopt necessary preventative measures to eliminate this practice".

Cruel, Inhuman or Degrading Treatment or Punishment.⁸ Amnesty International is also concerned that Gambia has accepted recommendations to guarantee freedom of expression only subject to its restrictive laws.⁹ The organization calls on Gambia to implement recommendations to fully protect and promote freedom of expression for all, and to ensure that human rights defenders can freely exercise their activities without intimidation.¹⁰

Prior to the UPR of Gambia, Amnesty International raised concerns about the risk of reprisals against Gambians seeking to engage with the review of Gambia.¹¹ During the visit by the Special Rapporteurs, many individuals interviewed by them expressed their fear of reprisals.¹² Several States urged protection of human rights defenders during the review¹³ and the organization urges this Council to actively monitor the situation so that Gambian citizens can engage with UN human rights mechanisms without fear of reprisals.

Despite numerous recommendations to repeal legislation criminalizing same-sex relations,¹⁴ the President signed an amendment to the Criminal Code in October 2014 which introduces even harsher sentences, including life imprisonment, for those suspected of being lesbian, bisexual or gay and for the offence of “aggravated homosexuality”.¹⁵ At least 14 people were arrested in November and December 2014 because of their presumed sexual orientation.¹⁶ It is of great concern that Gambia has rejected recommendations to protect the rights of LGBTI persons and confirmed its policy of prosecution.¹⁷

⁸ Responses to the Recommendations Given to The Gambia during the 20 Session of the UPR, 19 March 2015, para 3 available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session20/GM/A_HRC_28_6_Add.1_Gambia_E.doc.

⁹ Responses to the Recommendations Given to The Gambia during the 20 Session of the UPR, 19 March 2015, para 13, 14, 43, 49, 50, 51, 52, 53 & 54 available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session20/GM/A_HRC_28_6_Add.1_Gambia_E.doc. Of particular concern, Gambia rejected recommendations 109.59 – 109.64 to “amend the legislation to remove restriction on freedom of expression which has a major impact on human rights defenders, journalists and members of the political opposition.” Amnesty International has highlighted how these restrictive laws are in violation of international human rights standards. See further, Amnesty International Submission to the UN Universal Periodic Review, October – November 2014 available at <https://www.amnesty.org/en/documents/afr27/006/2014/en/>

¹⁰ A/HRC/28/6 para 109.57 (Portugal), 109.58 (Slovakia), 109.59 (Spain), 109.60 (Australia), 109.61 (Canada), 109.62 (Germany), 109.63 (France), 109.64 (Chile), 109.133 (Sweden), 109.134 (United States of America), 109.140 (Italy), 109.141 (Sweden).

¹¹ Gambia: Serious danger of reprisals against Gambians seeking to engage with the UN’s Universal Periodic Review, 16 October 2014 (AI Index: AFR 27/012/2014).

¹² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Mission to the Gambia, 2 March 2015 A/HRC/28/68/Add.4 para 96.

¹³ A/HRC/28/6 para 109.142 (Tunisia), 109.143 (France), 109.144 (Ireland), 109.146 (Mexico), 109.147 (Slovenia).

¹⁴ A/HRC/28/6 para 109.49 (Netherlands), 109.50 (Sweden), 109.51 (Sweden), 109.52 (Australia), 109.53 (France), 109.54 (United Kingdom of Great Britain and Northern Ireland), 109.55 (Canada), 109.56 (Germany), 109.98 (Spain), 109.99 (United States of America), 109.100 (Argentina).

¹⁵ Gambia “Aggravated Homosexuality” Offence carries Life Sentence, available at: <https://www.amnesty.org/en/articles/news/2014/11/gambia-aggravated-homosexuality-offence-carries-life-sentence/>

¹⁶ Gambia must stop wave of homophobic arrests and torture, available at www.amnesty.org/en/news/gambia-must-stop-wavehomophobic-arrests-and-torture-2014-11-18. Three of the men are currently facing trial in the High Court of Banjul at present.

¹⁷ Responses to the Recommendations Given to The Gambia during the 20 Session of the UPR, 19 March 2015, para 30, 11 as 12 available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session20/GM/A_HRC_28_6_Add.1_Gambia_E.doc. Though Gambia states in para 30 that “no person has been subjected to any form of violence based on sexual orientation”, Amnesty International has documented such cases. See for example, Gambia must stop wave of homophobic arrests and torture, available at www.amnesty.org/en/news/gambia-must-stop-wavehomophobic-arrests-and-torture-2014-11-18 Concerns were also raised by the Special Rapporteur on Torture in his recent report. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez: Mission to The Gambia (Advanced United Version) 2 March 2015, Para 93.

Gambia's UPR has again highlighted the scale of serious human rights violations in the country and the government's disregard for international human rights mechanisms. Amnesty International urges this Council to ensure more sustained attention to the situation in Gambia beyond this review.

Background

The UN Human Rights Council adopted the outcome of the Universal Periodic Review of Gambia on 26 March 2015 during its 28th session. Prior to the adoption of the review outcome, Amnesty International delivered the oral statement above. Amnesty International had earlier submitted information on the situation of human rights in Gambia:

<https://www.amnesty.org/en/documents/afr27/006/2014/en/>

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