

20 Years of Fear in Gambia



Time for Justice!

**A selection of 20 cases of human rights
violations in Gambia since 22 July 1994**



Chronology

2014:

- In June the ECOWAS Community Court of Justice decides against the Gambia Government for its failure to conduct a diligent investigation into the killing of journalist Deyda Hydara.
- Journalists Musa Sheriff and Sainey Marenah are arrested in January. They are released a couple of days after but their trial is ongoing

2013

- In September United Democratic Party activists Amadou Sanneh, Malang Fatty and Alhagie Sambou Fatty are arrested and tortured. They are still in detention.
- In September TV broadcaster Fatou Camara is arrested and detained incommunicado for almost a month. She fled the country shortly after her release.
- In July adoption of Information and Communication (amendment) Act 2013 and Criminal Code (amendment) Act 2013 on april containing provisions to further muzzle freedom of expression.

2012:

- In December enforced disappearance and torture of Human Rights Defender Imam Baba Leigh. He was released in May 2013 and fled the country.
- The authorities close down Taranga FM, Daily News and The Standard between August and September.
- In August arbitrary execution of 9 death row inmates.

2011:

- Dr Amadou Scattred Janneh and Ndey Tapha Sosseh are charged with treason. is sentenced to life imprisonment with hard labor. He is released in 2012 and expelled from the country. Ndey Tapha Sosseh was tried in absentia and she remains outside of Gambia for safety reasons.

2010:

- In October the ECOWAS Community Court of Justice decides against the Gambia Government for the arbitrary arrest and torture of journalist Musa Saidykhan.
- In December women's Human Rights Defenders Dr Isatou Touray and Amie Bojang Sissoho are arrested and charged with theft. They are released after nine days of detention and acquitted in 2012.

2009:

- President Yahya Jammeh threatens human rights defenders. The African Commission calls on Gambia to protect journalists and human rights defenders in resolution 145.
- In March More than 1,000 individuals are taken to secret detention centers in a witch hunt and forced to drink hallucinogenic liquids.

2008:

- In June the ECOWAS Community Court of Justice decides against Gambia for the enforced disappearance of journalist Ebrima Manneh.

2007:

- US based Gambian journalist Fatou Jaw Manneh is arrested In March at Banjul International Airport upon her return to Gambia. She is detained for six days at the NIA headquarters. She was released on bail. Her trial lasted almost two years during which she is not allowed to leave the country.

2006:

- In July journalist Ebrima Manneh is subjected to enforced disappearance. His whereabouts are unknown to this day.

2005:

- In July 50 foreign nationals are killed with the involvement of "rogue" Gambian security forces. No one has been held accountable.

2004:

- In December journalist Deyda Hydara is killed. To this day, there has been no proper investigation in his death.

2001:

- Adoption of the Indemnity (amendment) Act 2001 which In April gives the President power to indemnify any person against prosecution for any act committed to quell an unlawful assembly or other emergency situation. The act deters victims of human rights violation from seeking remedy.

2000:

- The Gambian security forces open fire on peaceful demonstrators. 14 people are killed, including 6 children. No one has been brought to justice.

1997:

- In January the Constitution of the Republic of The Gambia comes into force. It retains the death penalty and provides for a review of the desirability of the death penalty which is now 17 years overdue.

1994:

- Military coup bringing Yahya Jammeh to power on 22 July.

Introduction

As the government of President Yahya Jammeh marks 20 years in power in Gambia on 22 July 2014, Amnesty International, ARTICLE 19 and Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO), are calling on the Gambian authorities to reverse the shrinking space allowed for political opposition and freedom of expression. Over these 20 years, the government of President Yahya Jammeh has tolerated no dissent and refused to abide by international and regional human rights obligations. Human rights defenders, journalists, and political opponents continue to face intimidation, harassment, death threats, arbitrary arrest, detention, torture and ill-treatment and enforced disappearance, in total impunity. Most civil society or media houses practice self-censorship in a pervading climate of fear.

This document highlights 20 cases of serious human rights violations over the last 20 years. It illustrates the deterioration of the human rights situation in Gambia. The cases are categorised based on the nature of the violation. The pieces of legislation developed since the military coup allow for these violations to take place with almost total impunity and discourage victims to seek redress. They are discussed in the last part of the statement.

The cases mentioned in the statement represent a small sample of the human rights violations that have occurred in Gambia since 1994. There are more human rights defenders and journalists in Gambia who have been confronted with the efforts of the authorities to muzzle dissent. We cannot feature their stories because of the risks it could expose them to.

Coming at a time when the government is marking its 20 years in power, the upcoming Universal Periodic Review of Gambia provides a unique opportunity for the Gambian authorities to reflect on their human rights challenges and to take concrete measures to promote and protect human rights, including by repealing legislation that restrict freedom of expression, investigating allegations of human rights violations and holding perpetrators to account.

Gambia has ratified a number of human rights treaties, including the International Covenant on Civil and Political Rights, its Optional Protocol and the African Charter on Human and Peoples' Rights.¹ However, the government failed to ratify other equally important international human rights treaties,²

including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention for the Protection of all Persons to Enforced Disappearance and the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

The government has consistently failed to implement resolutions from the African Commission on Human and Peoples' Rights (ACHPR)³ and the decisions of the Economic Community of West African States (ECOWAS) Community Court of Justice calling on Gambia to investigate allegations of acts of torture in detention and extrajudicial executions and to comply with the decisions of the ECOWAS Court of Justice, including in the cases of Ebrima Manneh, Musa Saidykhan and Deyda Hydara featured in this briefing.⁴

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- 1 Gambia also ratified the following human rights treaties amongst others: the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; the Convention on the Elimination of All Forms of Discrimination against Women; the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
 - 2 Gambia also failed to ratify the following international human rights treaties: the Optional Protocol to the Convention on the Elimination of Discrimination Against Women; the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights; the International Convention on the Rights of All Migrant Workers and Their Families; the Optional Protocol to the Convention Against Torture; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in Armed Conflict; the Convention on the Rights of Persons with Disabilities and its Optional Protocol is unclear.
 - 3 Recent resolutions include: Resolution on the Deteriorating Human Rights Situation in the Republic of The Gambia (Resolution No. ACHPR/res. 145 2008); Resolution on the Human Rights Situation in the Republic of The Gambia (Resolution No. ACHPR/Res. 134 2008)
 - 4 Chief Ebrima Manneh v. Republic of The Gambia (2008)
Musa Saidykhan v. Republic of The Gambia (2010)
Deyda Hydara & Anor v. Republic of The Gambia (2014)

Overview of 20 cases of human rights violations

CASES 1 to 4: ARBITRARY EXECUTIONS AND UNLAWFUL KILLINGS

Extrajudicial executions and unlawful killings have been carried out in Gambia over the last 20 years, especially against members of the security forces, political activists, journalists and human rights defenders who oppose the government.

Arbitrary executions are deliberate and unlawful killings are prohibited by the International Covenant on Civil and Political Rights (Article 6) and the African Charter (Article 4).

1. Execution of 9 inmates

On 23 August 2012, nine death row prisoners were executed by firing squad. These were the first executions in nearly 30 years. No prior notification was given to the prisoners, or to their families, lawyers or the diplomatic representatives in the case of foreign nationals. The authorities did not confirm the executions until several days later. At least three of them had not exhausted their legal appeals. The remains of the seven Gambian and two Senegalese death row prisoners executed have not been returned to their families for burial, nor has the location of their graves been disclosed.

2. Killing of Deyda Hydara

On 16 December 2004, Deyda Hydara, editor of The Point newspaper and president of the Gambia Press Union, was shot and killed in his car while travelling home from work. Two of his colleagues were also in the car and were shot in their legs and critically injured. The murder came on the anniversary of the



establishment of The Point, and three days after the controversial legislation increasing the registration fees for media had been passed, which Deyda Hydara had opposed. None has been brought to justice for his killing. On 10 June 2014, the ECOWAS Court of Justice delivered a decision against the Gambia Government for its failure to conduct a diligent investigation into the killing of Deyda Hydara. The Court ordered the government to pay damages to the family of the journalist.

3. Killing of 14 protesters in April 2000

On 10 and 11 April 2000, security forces opened fire on students peacefully protesting against the reported killing of fellow student Ebrima Barry in Brikama, 30km from Banjul. Thirteen students and a journalist covering the protest were killed, including six children. 28 people were injured and several did not get adequate medical treatment. A few weeks later, the government appointed a coroner's inquest and in May set up a commission of inquiry to determine the reasons of the riots and deaths. The reports concluded that security forces were responsible for the deaths. The government subsequently rejected the findings of the commission and no action was taken to investigate and bring the perpetrators to justice.

4. Killing of 50 foreign migrants

On 23 July 2005 a group of 50 foreign nationals, including 44 Ghanaians, was intercepted by Gambian security forces in the waters of Gambia on suspicion of planning to overthrow the government during Gambia's Independence Day celebrations. According to a Commonwealth Human Rights Initiative (CHRI) report, the men were taken to the naval headquarters in Banjul, divided into groups of eight and taken to a field near Siffoe in Gambia's Western Division. There they were reportedly killed by members of security forces with machetes, axes and other weapons. The bodies were indiscriminately dumped at various locations, among them the village of Brufut, near Siffoe. Efforts to initiate an investigation into this incident have been mired in problems. In July 2007 the Ghanaian Foreign Affairs Legal Bureau identified the bodies of eight Ghanaian men. Preliminary investigations show they died from shock and trauma. In 2009, a report carried out jointly by ECOWAS and the UN determined that rogue security forces were responsible. It included the names

of individual officers. So far, the Gambian government has paid a contribution towards the funeral expenses of the six Ghanaian bodies found on their territory. There has been no further investigation and none of the alleged perpetrators named in the report have been brought to justice:

CASES 5 to 6: ENFORCED DISAPPEARANCES

The government uses enforced disappearance to instil fear among human rights defenders, journalists, opposition party members and former security force personnel. Investigations into enforced disappearances are rarely carried out and the perpetrators are not brought to justice.

Enforced disappearance takes place when a person is arrested, detained or abducted by the authorities or their agents, but the authorities refuse to acknowledge this, or to reveal the person's fate or whereabouts, therefore placing them outside the protection of the law. Under international law, victims of enforced disappearance include people other than the disappeared person him or herself, such as family members. Enforced disappearance is prohibited by the International Convention for the Protection of All Persons from Enforced Disappearance, which Gambia has not yet ratified.

5. Enforced disappearance of Imam Baba Leigh

Muslim cleric and human rights defender, Imam Baba Leigh, was subjected to enforced disappearance and torture. He was arrested on 3 December 2012 by two National Intelligence Agency officers. He was taken to their headquarters for questioning and tortured. He said he was beaten for several hours over ten days, including with batons, cables and whips. One night, NIA agents took him out of his cell, threw him in a hole in the ground with his hands and feet



tied and poured sand up to his chest pretending to bury him alive. Before being transferred to Old Jeshwang Prison Yard close to Kanifing, 10 kilometres from Banjul, he was stripped naked and dragged by his feet and his arms across the compound to reopen the wounds inflicted during the beatings. All the torture sessions were recorded on tape. Imam Baba Leigh was detained incommunicado for five months. He was never charged with a crime, was not brought before a court and was not allowed contact with a lawyer or his family. He had publicly condemned the government's use of the death penalty. He was released following a presidential pardon in May 2013. There was no investigation in his enforced disappearance and torture and no perpetrators were brought to justice.

6. Enforced disappearance of Ebrima Manneh

Ebrima Manneh, a reporter with the Gambian newspaper Daily Observer, based in Banjul, was arrested by government agents on 11 July 2006. He has not been seen since. His whereabouts are still unknown. Ebrima Manneh was never charged with a crime and the government denies having him in their custody. He is still listed on the Interpol website as a missing person. In 2008 the Economic Community of West Africa States (ECOWAS) Court of Justice ordered the Gambian government to release him from unlawful detention and pay him compensation. The judgment has yet to be enforced. Ebrima Manneh is a prisoner of conscience.



CASES 7 TO 8: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

In Gambia, torture or ill-treatment in detention are routinely carried out, including to extract confessions which are later used in court. Under Gambian Constitution and regional and international law, no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. The prohibition against torture or cruel, inhuman or degrading treatment or punishment includes acts which cause mental as well as physical suffering to a victim.

7. Torture of United Democratic Party activists Amadou Sanneh, Alhagie Sambou Fatty and Malang Fatty

On 18 December 2013, Amadou Sanneh, the national treasurer of Gambia's opposition United Democratic Party (UDP), and two other UDP members, Alhagie Sambou Fatty and Malang Fatty, were convicted of sedition and sentenced to up to five years of imprisonment. They were held incommunicado at the NIA Headquarters for nearly a month prior to their trial. All three alleged they were tortured to confess on national television. Alhagie Sambou Fatty and Malang Fatty had no legal representation throughout their incarceration and trial. Malang Fatty was arrested at Amdallai Border Post by Gambia's NIA as he tried to leave the country on 19 September 2013. He was in possession of a document provided by Amadou Sanneh and his brother Alhagie Sambou Fatty in support of his asylum claim. Amadou Sanneh was arrested on 25 September by the NIA. He had written a letter supporting the asylum application of UDP member Malang Fatty. In the letter, Amadou Sanneh claimed Malang Fatty had received death threats from government security services and that the UDP was routinely persecuted by the Gambian government. The three UDP activists are prisoners of conscience.

8. Torture of Journalist Musa Saidu Khan

Journalist Musa Saidu Khan, editor in chief of The Independent, a Banjul based newspaper, was tortured after state security agents raided the newspaper offices in March 2006, shut it down and imprisoned its staff. Upon his release, he fled Gambia. In December 2010, the ECOWAS Community

Court of Justice found that he "was arrested, detained and tortured by the [Gambian] agents for 22 days, without any lawful excuse and without trial" and ordered the Gambian government to pay Musa Saidu Khan USD 200,000 in compensation. Gambia has failed to implement the Court's decision.

CASES 9 TO 11: THREATS AND ATTACKS ON HUMAN RIGHTS DEFENDERS

Human rights defenders face harassment and intimidation, are arrested and detained, faced enforced disappearance or forced into exile. The government has accused human rights defenders as "foreign agents" spreading "nothing but lies". The Gambian Constitution Chapter IV Article 25 provides for freedom of speech, expression, the press and other media. Article 19 of the ICCPR ensures that everyone has the right to hold opinions without interference. This right includes the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media. The African Charter (Article 9) provides that every individual shall have the right to receive information and every individual shall have the right to express and disseminate his opinions within the law. Ensuring the safety of journalists and human rights defenders is vital for the respect and promotion of the right to freedom of expression.

9. President Jammeh's treats against Human Rights Defenders

On Monday 21 September 2009, President Jammeh stated on national television that he would kill anyone who threatened to destabilize the country. President Jammeh specifically threatened human rights defenders, and those working with them, by emphasizing that their security and personal safety would not be guaranteed by the government of Gambia. Several human rights non-governmental organizations have condemned the threats issued by the President and asked the Gambian authorities to guarantee the human rights and safety of human rights defenders and other members of civil society in Gambia. In October 2009, the African Commission passed resolution 145 expressing concerns about the threats issued by President Jammeh and asking the Gambian government to withdraw them and guarantee respect for the human rights of human rights defenders and other members of civil society in Gambia. The Gambian authorities have consistently failed to imple-

ment resolution 145.

10. Human Rights Defenders Dr Isatou Touray and Amie Bojang Sissoho

On 11 October 2010, women's rights defenders Dr Isatou Touray and Amie Bojang Sissoho were arrested by security personnel and charged with theft. Both work for the Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP), a non-governmental organization based in Gambia campaigning against Female Genital Mutilation (FGM). Both women were released on 20 October 2010 and acquitted in November 2012. GAMCOTRAP activists have been targeted because of their work in the past. They have been threatened and harassed on community and national radio.

11. Human Rights Defenders Dr Amadou Scattred Janneh and Ndey Tapha Sosseh

On 7 June 2011, Dr Amadou Scattred Janneh was arrested for being in possession of T-shirts which featured the slogan "End Dictatorship Now". Dr Janneh was sentenced to life imprisonment with hard labor after being convicted of treason. He was granted presidential pardon in September 2012 and expelled from the country. Human rights defender Ndey Tapha Sosseh, former President of the Gambia Press Union was charged with treason in the same case. She had left Gambia at the time and was tried in absentia. She never returned to Gambia in fear for her safety.



CASES 12 TO 15: ARBITRARY ARRESTS AND DETENTIONS

The NIA and the police routinely carry out arbitrary arrests. Individuals are often held without charge and beyond the 72-hour time limit within which a suspect must be brought before a court, in violation of the Constitution. The authorities often use controversial pieces of legislation containing vague definitions, such as giving false information to a public servant, to target journalists and human rights defenders who exercise their right to freedom of expression.

12. Journalists Musa Sheriff and Sainey M. K. Marenah

Journalists Musa Sheriff and Sainey M.K. Marenah were arrested on 13 January 2014, following an article in The Voice newspaper on the defection of youth supporters from the ruling party to the opposition. On 16 January, they were released on bail for Dalasi 20 000 (approximately USD 500). They continue to face charges of "conspiracy to commit misdemeanour" and "false publication". Court sessions have been cancelled on multiple occasions as magistrates or prosecution witnesses failed to appear in court, causing Musa Sheriff, Sainey M.K. Marenah and their families' financial and emotional distress.

13. TV broadcaster Fatou Camara

Fatou Camara, a TV broadcaster and former press secretary for President Jammeh, was arrested in September 2013 and held incommunicado for nearly a month. She was finally charged with sedition for "supplying false information with the intent to tarnish the image of the President." In October 2013, she was released on a bail for Dalasi 5 million (USD 124 477). She fled the country in October in fear for her safety.

14. 2009 witchhunt

In March 2009, more than 1,000 villagers from Foni Kansala district were taken to secret detention centers by "witch hunters" from Guinea and Burkina Faso dressed in red hooded outfits. The "witch hunters" were allegedly brought in by the President and accompanied by Gambian police, soldiers,

NIA agents and the President's personal guards. The villagers were reportedly forced to drink hallucinogenic liquids and confess to "witchcraft". The drinks appeared to cause kidney problems and reportedly led to at least six deaths. Opposition leader Halifa Sallah, who wrote about the "witchcraft campaign" in the opposition newspaper, Foroyaa, was detained, charged with treason and held in Mile 2 Central Prison until his case was dropped in late March 2012. The "witchcraft campaign" ceased after it was publicly exposed, but none of those involved in the abuses was brought to justice.

15. Fatou Jaw Manneh

In March 2007, Fatou Jaw Manneh, a US-based Gambian journalist, was arrested at Banjul International Airport as she was returning to Gambia to bury her father. She was charged with sedition for anti-government comments made in an interview she had given a year earlier. She was detained for six days at the NIA Headquarters. The authorities confiscated her passport and she had to stay in Gambia, away from her children who lived abroad, until her trial ended in August 2008. She was sentenced to four years in prison with hard labour or to pay a bail bond of Dalasi 250 000 (approximately USD 6 225). She paid the bail and left the country.

CASE 16: CLOSURE OF MEDIA HOUSES

The government regularly closes down media outlets deemed critical of government policies.

16. Taranga FM, Daily News and The Standard

Between August and September 2012, NIA officials closed the private radio station Taranga FM and the Daily News and The Standard newspapers. No court order or document was issued and the editors were given no explanation. Taranga FM and The Standard reopened in 2013 and the Daily News in 2014.

CASES 17 TO 20: PASSING OF REPRESSIVE LEGISLATION AND IMPUNITY

Over the last 20 years, the Gambian authorities have passed legislation to stifle dissent and discourage victims of human rights violations to seek redress. These pieces of legislation are often not in line with international and regional human rights law treaties Gambia has ratified.

17. Information and Communication (amendment) Act 2013

In July 2013, the Information and Communication (amendment) Act 2013, was passed by the National Assembly. The Act allows for courts to impose penalties of up to 15 years imprisonment and hefty fines for criticizing government officials online, including for those who spread "false news" about the government or public officials; caricature or make derogatory statements against public officials; and incite dissatisfaction or instigate violence against the government. It means that a simple cartoon or satirical comedy could carry up to 15 years in jail and a fine of up to of three million Dalasi (approximately USD 74 690). The Act aims at repressing dissent on the Internet which is a gross restriction on the right to freedom of expression.

18. Criminal Code (amendment) Act 2013

In May 2013, the Criminal Code (amendment) Act was passed. It broadens definitions of various offences and imposes harsher punishments for acts of public disorder, such as "hurling abusive insults" or "singing abusive songs" and for giving false information to a public servant. The amendment criminalizes personal expression through choice of clothing, particularly for those who do not conform to dominant gender 'norms'. The Act also contains vague definitions which leave room for interpretation and application inconsistent with international human rights law and standards. The Gambian Criminal Code had already been amended on several occasions (2004, 2005 and 2011) to increase fines and prison terms for sentences, including for acts related to sedition and libel, with a view to muzzle freedom of expression.

19. The Indemnity (amendment) Act 2001

In April 2001, the National Assembly passed the Indemnity Amendment Act which gave the President power to indemnify any person against prosecution for any act committed to quell an unlawful assembly or other emergency situation. It was intended that this law would be backdated in order to give immunity to the security forces responsible for shooting the students in April 2000. In 2002, the Supreme Court ruled that the Indemnity Act did not apply to the security forces since it was passed after the incident took place. The law is still in force today and continues to discourage most victims of human rights violations from seeking redress. The right to an effective remedy for victims of human rights violations is guaranteed under the ICCPR (article 2.3).

20. 1997 constitution

The Constitution of the Republic of The Gambia came into force on 16 January 1997. Several human rights organizations raised concerns about the threats the new Constitution would pose to human rights, including because it retained the death penalty. Death penalty was abolished by the Gambian government in 1993 and reinstated by President Yahya Jammeh in 1995. The 1997 Constitution (article 18.3) provides for a review of the desirability of the death penalty by the National Assembly within 10 years. The review is now 17 years overdue.

TAKE ACTION NOW

1. Write to the President of Gambia, asking him to use his position to:
 - Ensure that the Gambian authorities repeal legal provisions used to restrict freedom of expression, association and assembly, including in the Information and Communications Act, the Indemnity Act and the Criminal Code Act;
 - Ensure that the Gambian authorities protect journalists, human rights defenders and political activists who are being attacked, arbitrarily arrested, detained, tortured and faced enforced disappearance simply for exercising their rights to freedom of expression, freedom of assembly and freedom of association;
 - Ensure that the Gambian authorities investigate reports of human rights violations and bring perpetrators to justice;
 - Ensure that the Gambian authorities immediately and unconditionally release all prisoners of conscience and release all those currently detained unlawfully or charge them with a recognizable criminal offence in a fair trial, including journalist Ebrima Manneh and UDP activists Amadou Sanneh, Alhagie Sambou Fatty and Malang Fatty.
2. Write to the Chairman of ECOWAS (President John Dramani Mahama) asking him to raise these concerns with the Gambian authorities and ask the authorities to move swiftly to fully and effectively implement the decisions of the ECOWAS Community Court of Justice on Ebrima Manneh, Musa Saidykhan and Deyda Hydera and the resolutions of the African Commission for Human and People's rights calling for the protection human rights defenders and journalists.

Send appeals to:

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| ■ H.E. Yahya A.A. Jammeh | ■ Chairman John Dramani Mahama |
| President of the Republic of the Gambia | 60, Yakubu Gowon Crescent, |
| State House | Asokoro District P.M.B. 401 Abuja, Nigeria |
| Banjul | Fax: (234) (9) 31 43 005 |
| Gambia | 31 47 646 |