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U.S. Department of State

The Gambia Country Report on Human Rights Practices for 1996

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THE GAMBIA

The Gambia is controlled by President Yahya A.J.J. Jammeh, the military leadership that joined him in a coup d'etat, and other members of the cabinet formed subsequently. Jammeh is the former chairman of the Armed Forces Provisional Ruling Council (AFPRC) that seized power in a coup d'etat in 1994, deposing the democratically elected government of Sir Dawda Jawara. Jammeh became President following controversial elections in September that observers considered neither free nor fair. Following his election, Jammeh dissolved the AFPRC and declared the Cabinet to be the sole ruling body until the National Assembly is elected in January 1997. President Jammeh and his party, the Alliance for Patriotic Reorientation and Construction (APRC), strongly backed by the armed forces, continue to dominate the Government and to repress most genuine opposition forces. The judiciary remained sensitive to government pressure.

The Gambian National Army (GNA) reports to the Minister of Defense (who is now the President). The police report to the Minister of Interior. The National Intelligence Agency (NIA), established in 1995 by government decree, reports directly to the Head of State but is otherwise autonomous. The AFPRC Government and some members of the security forces committed serious human rights abuses.

The Gambia's population of just over 1 million consists largely of subsistence farmers growing rice, millet, maize, and groundnuts (peanuts), the country's primary export crop. The private sector, led by reexporting, fisheries, horticulture, and tourism, contracted after the 1994 coup, but appears to be rebounding. Cuts in international economic assistance coupled with high population growth have worsened the economic decline.

The Government's poor human rights record continued as it committed widespread and repeated human rights abuses, but it improved somewhat during the year. Although the Government repealed a decree banning all political activities, in practice citizens still do not have an effective opportunity to change their government, although parliamentary opposition is becoming increasingly significant. Security forces beat and abused detainees. The AFPRC arrested and detained senior government officials and members of the press. It held detainees incommunicado and did not acknowledge their detentions; detained armed forces and police personnel without charge; banned political parties and specific individuals from political activity; curbed political activities, publications, and other communications; violently disrupted opposition campaign trips; and intimidated the press. The rights to travel and the right to transfer funds or assets for senior officials of the former Jawara government remained restricted in several cases. Prison conditions remained poor, and the courts remained subject to executive influence. AFPRC decrees abrogated due process and allowed the Government to search, seize, and detain without warrant or legal proceedings. The AFPRC ordered the arbitrary arrest, firing, and retirement of government officials and civil service employees loyal to the previous government. Discrimination against women persists. While health professionals have focused greater attention on the dangers of female genital mutilation (FGM), the practice is widespread and entrenched.

The AFPRC took some steps toward the formation of democratic institutions, but still retained control. A new Constitution defining most aspects of the Second Republic was approved in a national referendum in August and came into effect in January 1997 with the inauguration of the President. However, restrictive security decrees remain in effect. Given harsh press intimidation, the independent press has shown caution and practices self-censorship.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

There were no developments in the 1995 deaths of Saidbou Haidara or Finance Minister Ousman Koro-Ceesay. The opposition used the lack of investigation in these cases to criticize the Government during the presidential campaign.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The AFPRC did not suspend the previous Constitution's prohibition against torture and other cruel, inhuman, or degrading punishment and the new Constitution also forbids such practice. However, there were reports by detainees that agents of the State used torture or the threat of torture in interrogating them.

In January one of the detainees on trial for sedition testified that soldiers beat him in an attempt to obtain a confession from him. A woman on trial for sedition said that she was threatened with electric shock when she failed to answer questions regarding clandestine publications alleged to have been in her possession.

At the height of the September presidential election campaign, soldiers dragged 100 to 200 members of the opposition United Democratic Party (UDP) from their vehicles headed to Banjul. The soldiers ripped off the UDP members' party-labeled shirts, fired shots over their heads, confiscated their public address system, and burned UDP election materials. The opposition party members were forced to go to NIA headquarters where they were harassed and beaten, stripped of their clothing, and forced to run from the building. One senior member of the UDP leadership who refused to run was beaten with a rifle butt and suffered a broken hand.

Conditions at Mile 2 and Janjanbureh prisons remained poor. Mile 2 prison was reported to be austere, overcrowded, and lacking in medical facilities. Prisoners are locked in their cells for over 20 hours each day. Other reports indicate that the AFPRC assigned military guards to augment the corrections staff at the prison, and there were credible reports of malnourishment, illness, and beatings of military and security detainees. Women are housed separately.

Conditions in one local jail were reportedly unsanitary and overcrowded. Inmates slept on cement benches or the floor with no blankets. They were served two small meals a day, one consisting only of rice. There was one water tap in the cell area, but often no water.

The Government permitted no visits by international human rights groups. The African Center for Democracy and Human Rights Studies submitted numerous informal requests throughout the year to inspect prison conditions and the status of detainees, but its requests were repeatedly thwarted by the Government.

d. Arbitrary Arrest, Detention, or Exile

The sections of the Constitution that protect against arbitrary arrest and detention were superseded by various decrees of the AFPRC. While there are provisions in the new Constitution that will provide protections, the restrictive security decrees that limited the previous Constitution remain in force. The AFPRC frequently and arbitrarily arrested military and police personnel, civil servants, parastatal staff, and media representatives. In 1995 the AFPRC declared by decree that the NIA would have the power to search, seize, detain, or arrest any individual or property without due process, and that the Minister of Interior could order a 90-day detention without charge and not subject to writ of habeas corpus. In January the AFPRC issued Decree 66, extending indefinitely the period the Minister of Interior may hold a person without charge. The new Constitution does not supersede these decrees, which remain in force.

The regime subjected prominent civilians in and out of government to lengthy surprise interrogations in uncomfortable circumstances, often lasting overnight, and detained some officials for extended periods.

Member of Parliament Lamin Waa Juwara was reported missing in March. Inquiries by family members were met with claims that the Government knew nothing about his detention or whereabouts. Senior government officials have privately acknowledged to a foreign diplomat that the Government is holding Juwara, but it has not publicly acknowledged his detention or charged him with any offense.

In January and in July, the Supreme Court rejected writ of habeas corpus applications for Housainou Njie and Momodou Cadi Cham, held in detention for political reasons since October 1995. The Court maintained that Decrees 57 and 66 give the Government the right to detain prisoners indefinitely. They were unconditionally released on November 4.

In January two visiting Senegalese journalists were seized and harassed by the NIA. They were later

released only after repeatedly explaining their presence in the country.

A student and freelance reporter was arrested in February and detained for 7 days by the NIA, reportedly for submissions he made to the British Broadcasting Corporation Focus on Africa program.

The Government brought charges against all independent newspapers in March for failing to make annual returns (information regarding ownership of the paper and a signed bond). The newspapers said that the returns had been made, and the charges were subsequently dropped.

In April the NIA detained reporter S.B. Danso for 24 hours reportedly in reaction to a story he wrote about Mrs. Tuti Faal Jammeh, wife of the Head of State.

In June the NIA arrested and interrogated journalist Ansumana Badjie in connection with "negative reporting." He subsequently left the country fearing persecution.

In May journalists Alieu Badara Sowe and Bruce Asemota were arrested at their respective offices. They were held incommunicado for 16 days and then released. Both Badara and Sowe had written articles reporting fraud and dismissals in the national police department. While in detention, police demanded that they reveal their sources. Newspaper stories stated that Asemota was beaten.

Prior to the September 26 presidential election, opposition supporters were arrested and allegedly intimidated by the security and armed forces (see Section 1.c.). Following the election, there were several reports of opposition supporters being arrested and detained for allegedly making critical remarks about the government party.

In September the public relations officer for the opposition UDP disappeared following the party's launching ceremony. His mother said that men claiming to be NIA officers came to her residence looking for him. He appeared in Dakar a week later, claiming he had to flee his country because he was harassed and intimidated by the NIA.

The authorities generally did not permit families, independent observers, or other private citizens to visit military, police, or civilian detainees. Family members of detainees were subjected to intimidation and harassment by security forces, who made verbal threats and unannounced searches. In July two wives of detainees were followed home by NIA agents after meeting with a local human rights organization. Their houses were immediately searched and they were threatened with detention.

The AFPRC did not provide an accounting of detainees. Since the dissolution of the AFPRC, the President and the Cabinet govern. The decision regarding arrests and detentions lies with the executive branch. A journalist and a local nongovernmental organization named 29 military and police personnel whom they claimed have been arrested and detained since July 22, 1994. Of these 11 were released unconditionally on October 29. The reasons for these arrests and detentions are largely unknown. Along with military, police personnel, and civilians in long-term detention, the authorities detained an unknown number of additional people for shorter periods, ranging from hours to days. The majority of the 35 people arrested in October 1995, allegedly for attempting to organize a demonstration, were released by the end of 1996. The remainder reportedly have been charged with sedition. In August the AFPRC issued a decree banning a number of former political parties and their members from political activity for 30 years (see Section 3).

The Head of State pardoned 60 prisoners. In January four soldiers who had been detained since the 1994 military coup were granted amnesty. In February 20 prisoners, some who were political detainees from

1995, were pardoned. In July 13 political detainees were released. In October 11 security detainees were released, followed by 12 political detainees in November.

The government did not exile opponents. However, three senior officials of the former government, President Jawara, Vice President Sabally, and Secretary General Janha, remain outside the country under threat of arrest and detention if they return. Other officials who were outside the country at the time of the coup are at similar risk.

e. Denial of Fair Public Trial

Although the Constitution provides for an independent judiciary, the courts are traditionally responsive to executive branch pressure.

The judicial system comprises a Judicial Committee of the Privy Council (based in London), the Supreme Court, the Court of Appeal, and the magistrate courts (one in each of the five divisions plus one in Banjul and one in Kanifing). The new Constitution provides for a reconfiguration of the courts in which a Supreme Court will replace the Privy Council as the ultimate court of appeal. Village chiefs preside over local courts at the village level. The AFPRC claimed that the judicial provisions of the Constitution remained in effect, but exempted its own decrees from court challenge and ignored due process with respect to arrest, detention, and trial.

The AFPRC appointed a number of commissions to investigate individuals and organizations suspected of corruption. These commissions have powers similar to a grand jury, including the authority to imprison and fine for contempt, and to imprison or demand bond from individuals considered likely to abscond. The commission findings recommended that the Government ban certain former politicians from running for political office for 5 to 20 years.

Despite these incidents, the judicial system remains structurally intact and recognizes customary Shari'a and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and all other traditional and social relations. Shari'a law is observed primarily in Muslim marriage and divorce matters. Under Shari'a women receive half of what men receive in inheritance. General law, following the English model, applies to felonies, misdemeanors in urban areas, and the formal business sector. Trials are public, and defendants have the right to an attorney at their own cost.

Although total numbers are not available, most prisoners detained under the AFPRC's anticorruption campaign, or for security reasons, were political detainees. The bulk of those detained were released by year's end.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Existing Constitutional safeguards against arbitrary search were abrogated as part of Decree 45. AFPRC priorities in security matters and corruption investigations override all Constitutional safeguards. the new Constitution, Decree 45 remains in force.

Police seized private property and documents without due process and placed armed guards at homes and other properties suspected of having been acquired with embezzled or misappropriated funds. The AFPRC froze accounts of people under suspicion and prohibited by decree the transfer of their property. A number of instances remain unresolved. Observers assume that the Government monitors citizens engaged in activity that it deems objectionable. In the past, surveillance included monitoring of

telephones and mail. The AFPRC also denied persons under house arrest access to international telephone service.

Opposition leader Ousainou Darboe fled his home and took refuge in the Senegalese embassy for 4 days following the presidential elections. The NIA posted agents outside Darboe's house, and Darboe claimed that the NIA made repeated death threats and harassed him. NIA agents were later withdrawn, and Darboe resumed his political activity.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The old and new Constitutions provide for freedom of speech and the press but in practice the AFPRC significantly restricted these freedoms. Until August political activities of all kinds, including possession and distribution of political literature or engaging in political discourse by any other means, was prohibited. Although Decree 89, promulgated in August, lifted some prohibitions on political activity, an atmosphere of fear remained regarding political action and relatively free exercise of political rights began only in December with the opening of the legislative electoral campaign.

The AFPRC attempted to require diplomats to secure government approval for all public statements.

The AFPRC used government decrees, summary arrest, interrogation, and detention to intimidate and silence journalists and newspapers that published articles that it deemed inaccurate or sensitive (see Section 1.d.). In March the AFPRC enacted Decrees 70 and 71, which required all newspapers to post a \$10,000 bond or cease publication. While publishers posted the bonds within the allotted time frame, the Ministry of Justice rejected the bonds, claiming that the newspapers did not meet other conditions, not initially stipulated in the decree. As a result, nongovernmental newspapers ceased publication for 1 week until the Minister of Justice accepted the bonds. Fear of reprisals and government action forced all newspapers to exercise self-censorship. English, French, and other foreign newspapers and magazines are available. Although still independent, the nongovernment press grew cautious as the four major independent dailies practiced increasing self-censorship. Following the September presidential election,

there was some lessening of restrictions on the press with greater visibility for opposition views and more criticism of government policies.

Although the AFPRC called for analysis and criticism of the way in which it governed, it frequently carried out reprisals against individuals who publicly criticized the Government. A government-sponsored television station, The Gambia's first, began broadcasting nationwide in September. During the presidential election campaign, the programming consisted mostly of government propaganda. The country also receives broadcasts from Senegal. Wealthy private consumers also use satellite systems.

Radio broadcasts from one government and two private stations normally did not reach listeners in the eastern part of the country until power was increased late in the year. Private radio stations simulcast news provided by Radio Gambia, the government station. Senegalese and international radio broadcasts attract wide audiences.

During the presidential elections, the government party dominated the public media. The Provisional Independent Electoral Commission reported that the Head of State had more than 1,400 minutes of air time, while the leading opposition candidate had only 60 minutes.

There is no university, but a university extension program completed its first academic year in August. There are no reports of any government restrictions on academic freedom.

b. Freedom of Peaceful Assembly and Association

AFPRC decrees banned political organizations and political meetings of any kind throughout most of the year. While Decree 89 lifted the ban on political activities in August, the AFPRC's subsequent banning from politics of three major opposition political parties, all former presidents, vice presidents, and ministers, and other politicians; and its imposition of stiff penalties of life imprisonment or a \$100,000 fine considerably restricted political activity and involvement.

c. Freedom of Religion

The Constitution, which was partially suspended or modified after the AFPRC took power, and traditional laws provide for freedom of religion. Adherents of all faiths are free to worship without government restriction. The new Constitution provides for freedom of religion.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The new Constitution provides for freedom of movement. Freedom of movement for ordinary citizens remained unimpeded, but the authorities prohibited those under investigation for corruption or security charges from leaving the country. Journalists and government officials have been required to produce travel clearances. Former ministers were not allowed to leave the country.

In June the Head of State instructed divisional commissioners not to issue passports to young people until after September, when the farming season ended.

The Government cooperates with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provides first asylum and it did so for approximately 1,500 persons from Liberia and Sierra Leone in 1996, according to UNHCR. The Government works with the UNHCR in approving cases: the UNHCR identifies those that qualify for asylum or refugee status and the Government approves. There were no reports of persons forced to return to countries in which they feared persecution.

The Gambia continues to host approximately 2,000 Senegalese refugees from the Casamance region, and the AFPRC continued to work with the UNHCR, the Gambian Red Cross, and other organizations in dealing with refugees. Additionally, there are hundreds of refugees from Liberia and Sierra Leone. While there were no reports of forced expulsion of those having a valid claim to refugee status, in November the Government reevaluated the status of many of the refugees from Liberia and Sierra Leone, following an attack on a military barracks near the Senegalese border.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have an effective right to change their government, although parliamentary opposition is becoming increasingly significant. The first decree issued by the AFPRC in 1994 suspended legislative and executive sections of the Constitution, including provisions for Parliament and elections. Although the Government repealed a decree banning all political activities, in practice citizens still do not have any effective means by which to change their government. Decree 89 allowed the resumption of political activities with serious