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U.S. Department of State

The Gambia Report on Human Rights Practices for 1997

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THE GAMBIA

The Gambia is ruled by President Yahya A.J.J. Jammeh, 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 1996, which 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 election of the National Assembly and the adoption of a new Constitution. Four of the 13 Cabinet members are retired army officers who were Jammeh's allies during or immediately following the coup, and the armed forces strongly support the Government. In January the Constitution of the Second Republic came into effect, restoring formal constitutional government, and citizens chose a new National Assembly in elections whose results generally were accepted by the opposition. Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC) won 33 of the

45 Assembly seats filled by-election. Although formal constitutional rule was restored, key constitutional provisions have not been tested in the courts and opposition forces continue to encounter official interference. The judiciary reportedly has been at times subject to executive branch pressure, but courts demonstrated their independence in 1997 in a number of cases.

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 President but is otherwise autonomous. 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 is regaining strength. However, cuts in international economic assistance coupled with high population growth and a poor harvest have hampered any rapid economic growth. Per capita gross domestic product is estimated to be \$360.

The Government's human rights record improved somewhat, but serious problems remain. President Jammeh's dominance and restrictions on opposition parties continued, and in practice citizens still do not have an effective right to change their government, however, legislative elections held in January were accepted by the opposition; presidential elections are scheduled for 2001. Security forces beat detainees and, in one serious incident, security officials detained and tortured eight opposition party supporters. Prison conditions remained poor. On occasion security forces arbitrarily arrested and detained citizens, and the courts are traditionally responsive to executive branch pressure, although they demonstrated their independence. The Constitution declares illegal the prosecution of any member of the AFRC for any official act or omission in the performance of official duties following the 1994 coup. The Government limited freedom of assembly and association. Although opposition forces were active and vocal in the National Assembly, decrees limiting certain political and other human rights remained in effect. Government intimidation of the press continued, and the independent press practiced self-censorship. The right to travel and the right to transfer funds or assets remained restricted for some senior officials of the former Jawara government facing corruption charges. Discrimination and violence against women persists. While government health professionals have focused greater attention on the dangers of female genital mutilation, the practice is widespread and entrenched.

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 confirmed reports of political or other extrajudicial killings.

The circumstances of the death of Yaya Drammeh, a rebel accused of treason, at Mile 2 prison on May 25 have not been publicly explained. Drammeh was one of five men accused of treason for his role in an attack on an army barracks in November 1996 during which six soldiers were killed.

In October a group of soldiers patrolling a beach shot and killed a man. The Department of State for Defense offered official condolences and stated the matter would be "judiciously and expeditiously addressed." At year's end there had been no reports of arrest or charges.

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution forbids torture or inhuman or degrading punishment. However, agents of the State used torture on at least one documented occasion, and security forces also beat military and security detainees.

In June eight United Democratic Party (UDP) officials and supporters (seven men and one woman) were arrested, detained at National Intelligence Agency (NIA) headquarters, and tortured by security forces. At a press conference, they revealed cuts, bruises, and lacerations on their bodies. Other reports indicated more serious physical abuses. On June 26, the Government promised a full investigation and appropriate action by the Attorney General. Since the incident, police investigators have interviewed some witnesses; however, no one has been arrested and no results of the investigation have been made public. The press and human rights observers also report the detention and severe beating of UDP member Yaya Sanneh, who was arrested by soldiers on July 27. Sanneh was reportedly held for several days after making comments about an abortive attack on a military base near the border with Senegal.

Prison 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. There were credible reports of beatings, malnourishment and other harsh treatment of political, military, and security detainees. Women are housed separately.

In June newspaper reports claimed that there was a riot at Mile 2 Prison in which 12 prisoners were injured. Two reportedly later died of the injuries. The Government contested these reports and specifically denied that any prisoners had been killed. In July police raided Mile 2 prison in an attempt to curb reported drug trafficking and poor performance by security guards. Subsequently, however, a number of prison guards were dismissed and the prison was placed under new management.

Conditions in one local jail were reportedly unsanitary and overcrowded. Inmates slept on cement benches or the floor with no blankets. There was one water tap in the cell area, but often no water.

Following visits by the International Committee of the Red Cross (ICRC), in late 1996 the Government agreed in principle to prison visits by the African Center for Democracy and Human Rights Studies (ACDHR). The ICRC visited Mile 2 prison at least twice in 1997, but by year's end there had been no visits by the ACDHR.

d. Arbitrary Arrest, Detention, or Exile

The new Constitution includes provisions to provide protection against arbitrary arrest and detention. However, on occasion security forces arbitrarily arrested and detained citizens. Periods of detention ranged from a few hours to 5 days. 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 1996 Decree 66 gave the Minister of Interior authority to extend detentions without charge for renewable 90-day increments. These decrees have not been formally revoked, and the new Constitution provides that such decrees remain in effect until found to be inconsistent with its provisions. The Government has stated that it no longer enforces these decrees; in practice the Government appears not to enforce them. The Constitution now requires that detainees be brought before a court within 72 hours and police appear to be respecting this provision in practice.

While approximately 30 people have been briefly held and questioned, the last group of political detainees (including former member of Parliament Lamin Waa Juwara) dating from the AFPRC regime was released on February 3.

Three opposition supporters were detained without charges for several days in March. Eight opposition party officials and supporters were detained for 5 days in June and tortured in detention (see Section 1.c.). In July another opposition party member reportedly was detained for several days and tortured. In other instances, opposition party supporters and officials were held for questioning for periods of less than 1 day.

In January journalist Moco Mccauley was detained for 2 days, charged with working illegally, and threatened with deportation to Liberia. After his release, Mccauley fled to Sierra Leone, citing harassment from the Government.

In July police called in for questioning journalists Alhagi Yorro Jallow and Alieu Badara Sowe, demanded that they reveal their sources, detained them briefly, and summoned them for questioning several times over a period of several days. Both Jallow and Badara had written articles reporting a prison riot.

The Government did not exile opponents. However, former President Jawara remains outside the country under threat of arrest and detention on corruption charges if he returns. Other senior officials of the former government, e.g., Vice President Saihou Sabally, and Secretary General Abdou Sara Janha, also remain outside the country but do not face official charges.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary reportedly has been at times subject to executive branch pressure, but courts demonstrated their independence in 1997 in a number of cases. For example, in October the Court of Appeal, the country's highest court, overturned the treason convictions and death sentences of four men who led an abortive coup in November 1996. The Government is appealing this decision to the Privy Council in London. The Court of Appeal has also overturned several criminal convictions in less publicized cases.

The judicial system comprises a Judicial Committee of the Privy Council (based in London), the Court of Appeal, high courts, and the eight magistrate's courts. The new Constitution provides for an October 1998 reconfiguration of the courts in which a Supreme Court would replace the Privy Council as the ultimate court of appeal. Village chiefs preside over local courts at the village level.

The AFPRC appointed a number of commissions to investigate individuals and organizations suspected of corruption during the First Republic. These commissions have powers similar to a grand jury, with additional authority to recommend the seizure of assets, to imprison and fine for contempt, and to imprison or demand bond from individuals considered likely to abscond. There is a ban on political activity by ministers of the former government and three political parties. This ban is inconsistent with the new Constitution, but has not been challenged in court or withdrawn by the Government. Violation of the ban is punishable by life imprisonment.

The judicial system 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.

There were no reports of political prisoners.

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

The new Constitution prohibits such abuses, and the Government generally respects these prohibitions in practice. The Government, however, has not canceled Decree 45, which abrogated constitutional safeguards against arbitrary search, but remains formally in effect pending a finding by a court of law that the decree is inconsistent with the Constitution. In practice the Government appears not to enforce it.

In March three UDP members were arrested at the party leader's house and held without charges for a few days. In November police briefly disrupted a political gathering at the same house.

On June 8 a number of UDP activists were arrested at a cinema hall and another was arrested in the street outside a minister's home. On September 25, two UDP party secretariat members were arrested on private premises while holding a meeting. They were released without charge the same day. An editor of the *New Citizen*, which repeated the inaccurate charge in a UDP press release that the party members were tortured by police, was detained for 6 hours, told that he would be charged with causing public alarm, and released without charge but warned that the matter was still under investigation.

Observers assume that the Government monitors citizens engaged in activity that it deems objectionable. In the past, surveillance included monitoring of telephones and mail. Various investigating commissions made findings this year resulting in the forfeiture of private property, principally that held by former government and parastatal officials. The work of these commissions, which began under the AFPRC regime, is sanctioned under the new Constitution with provisions for due process. It is not clear, however, that the full rights of due process were accorded to officials investigated by the commissions before the Constitution took effect. The evidentiary standards applied by the commissions in ordering the forfeiture of money and property are not clear, and orders by the commissions have not yet been subject to effective judicial review.

The Government restricted the right to transfer funds or assets of some senior officials of the former Jawara government accused of corruption.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The new Constitution provides for freedom of speech and the press; however, in practice the Government significantly limits the full exercise of these freedoms by using police pressure and laws that inhibit the media.

In January two foreign journalists and one foreign employee, working for the independent newspaper *The Daily Observer*, were deported for working out of status, after the paper ran a series of articles critical of immigration authorities. *Daily Observer* offices were visited several times by immigration police and by the National Intelligence Agency. In October the editor of the *Daily Observer* was deported for failing to pay certain payroll taxes.

The Government employed arrest, detention, and interrogation to intimidate journalists and newspapers that published articles that it considered inaccurate or sensitive (see Section 1.d.). Decrees 70 and 71, enacted in March 1996, required all newspapers to post a \$10,000 bond or cease publication. These decrees and the fear of reprisals and government action have had a chilling effect. Although still independent, the nongovernment press grew cautious, with the four major independent dailies practicing

a significant degree of self-censorship. However, strong criticism of the Government is nonetheless frequent, and opposition views appear in the independent press. English, French, and other foreign newspapers and magazines are available.

Radio broadcasts from one government and two private stations normally reach listeners in the eastern part of the country. Government radio and television cover opposition remarks made in the National Assembly, but otherwise serve as propaganda instruments for the Government and its supporters. Private radio stations simulcast news provided by Radio Gambia, the government station, but independent news is also broadcast. Senegalese and international radio broadcasts attract wide audiences. Wealthy private consumers also use satellite systems.

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

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government restricts this right in practice. Although AFPRC's 1996 Decree 89 formally lifted the ban on political activities, the authorities rarely grant the principal opposition party (UDP) authorization for public meetings, and even private meetings were broken up by the security services.

The Constitution provides for freedom of association; however, the Government limited this right in practice. Decree 89 also banned three major opposition political parties, all former presidents, vice presidents, and ministers from political activity; the penalty providing life imprisonment for an individual or a \$100,000 fine for an organization considerably restricted political activity. Despite the fact that the decree apparently conflicts with the new constitutional provisions, the decree has not been challenged in court. The three major parties have not resumed activity nor have the various political figures done so.

On November 21, police tightly restricted people and vehicles permitted at the airport to welcome the return of UDP leader Darboe and a state house guard fired upon a press vehicle covering Darboe's return. On November 22, riot police unsuccessfully attempted to break up a UDP welcome home party at Darboe's residence.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. Adherents of all faiths are free to worship without government restriction. In June the imam of the mosque at Statehouse aroused concern when he criticized the Ahmadi Islamic sect, and the expatriate leadership and expatriate staff of the sect left the country, claiming fear of persecution. The Government intervened in the dispute and subsequently the sect agreed to the return of the expatriates to their leadership and technical functions with missionary work to be conducted by local Ahmadi.

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

The Constitution provides for freedom of movement but allows for "reasonable restrictions." Although freedom of movement for ordinary citizens remained unimpeded, the authorities prohibited those under investigation for corruption or security charges from leaving the country. A number of journalists and government officials have been required to produce travel clearances, but former ministers have received their passports and the leader of the opposition UDP and other opposition figures have traveled

outside the country without incident.

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 provided for approximately 3,000 persons from Liberia and Sierra Leone in 1997, including approximately 1,800 Sierra Leoneans who sought refuge this year. There were no reports of forced expulsion of those having a valid claim to refugee status, although some male Sierra Leoneans who fled by boat in June were not allowed to disembark in Banjul. 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 hosts approximately 8,000 refugees from Sierra Leone, Senegal, Liberia, and other countries. The Government continues to host approximately 3,500 Senegalese refugees from the Casamance region, including some 1,500 who arrived during the year. The Government continued to work with the UNHCR, the Gambian Red Cross, and other organizations in dealing with refugees. In November 1996, following an attack on a military barracks near the Senegalese border, the Government reviewed the status of many of the refugees from Liberia and Sierra Leone, but there were no reports of forced expulsion of those having a valid claim to refugee status.

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

Despite a new Constitution and January legislative elections, in practice citizens still do not have an effective right to change their government. Citizens attempted to exercise the right to change their government through a democratic process in presidential elections held in 1996. However, the few international observers that were present noted serious problems in the electoral process. Foreign governments condemned the election as not free and fair primarily because of restrictions imposed by the Government on opposition campaign efforts and access to the government-owned media prior to the election.

In January the Constitution of the Second Republic came into effect, and citizens chose a new National Assembly in elections whose results were accepted by the opposition. Opposition activity in the National Assembly is becoming increasingly significant and opposition assembly members state their views forcefully. In February members of the opposition UDP briefly walked out of the National Assembly in protest of an APRC candidate nomination. However, political activity is still restricted by the Government's frequent refusals to authorize opposition meetings and by the continuing authority of Decree 89, which although apparently unconstitutional has not been challenged in the courts. Decree 89 bans three former political parties and all persons who held the offices of President, Vice President, and minister since 1965 from involvement in politics until 2024.

During the campaign prior to the January parliamentary elections, President Jammeh was accompanied by a security entourage that included a military vehicle with an anti-aircraft gun and another military vehicle with a machine gun. Opposition attempts to organize and engage in public politics are still frustrated by police refusals to grant permits and by the detention of activists. For example, in early 1997, one former UDP National Assembly candidate and some colleagues were organizing a meeting. The meeting was not disrupted, but the candidate and a colleague were ordered to report to the police. They were detained for approximately 8 hours, although not charged.

The Constitution provides for the democratic election of the President every 5 years. National Assembly elections are held

3 months after the Presidential elections.

The Constitution prohibits discrimination on the basis of sex, and there are no obstacles to the participation of women in government. The Vice President and 3 of the 15 ministers in the Cabinet are women.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are several organizations whose mandates provide for human rights monitoring. The AFPRC's Decree 81 of 1996 requires nongovernmental organizations to register with a National Advisory Council, which has the authority to deny, suspend, or cancel any NGO's right to operate (including that of international NGO's). The Government, however, did not take action against any NGO's during the year.

There are two major organizations whose primary mandate is the promotion of human rights--the International Society for Human Rights (ISHRA) and the African Center for Democracy and Human Rights Studies (ACDHSR). Both ISHRA and ACDHRS have conducted training in democratic rights and civic education.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The new Constitution prohibits discrimination based on race, sex, religion, disability, language, or social status. The Government generally respects these prohibitions. However, statements by the imam of State House in June prompted the withdrawal of the expatriate leadership and professional staff of the Ahmadi religious sect. The Government later provided the sect with assurances against persecution.

Women

Domestic violence, including abuse, is occasionally reported; its occurrence is believed to be fairly common. Police tend to consider these incidents to be domestic issues normally outside their ordinary jurisdiction.

Shari'a law is usually applied in divorce and inheritance. Marriages are usually arranged, and polygyny is practiced. Women normally receive a lower proportion of assets distributed through inheritance than do male relatives.

Employment in the formal sector is open to women at the same salary rates as men. No statutory discrimination exists in other kinds of employment, although women are generally employed in endeavors such as food vending or subsistence farming.

Traditional views of women's roles result in extensive societal discrimination in education and employment. Families generally educate male children before female children. Females constitute about one-third of primary school students and roughly one-fourth of high school students.

Active women's rights groups exist, focused primarily on economic advantages and the elimination of female genital mutilation (FGM).

Children

The Government is committed to children's welfare. The Department of Education and the Department of Health, Social Welfare and Women's Affairs are the two most generously funded of all departments. However, lack of resources limits state provision of both education and health services.

The new Constitution mandates free compulsory primary education, but given the current state of the educational infrastructure, this provision represents a goal and not an accomplishment. There is no effective compulsory education. Opportunities for secondary education are even more limited. The care and welfare of children in distress is considered primarily a family responsibility. Authorities intervene when cases of abuse or mistreatment are brought to their attention.

The practice of female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is widespread and entrenched. Reports place the number of women having undergone FGM anywhere from 60 to 90 percent. Seven of the nine major ethnic groups practice FGM at ages varying from shortly after birth until 18 years old. The Government in recent years has publicly supported the eradication of FGM and discourages FGM through health education. However, FGM carried out with parental consent is not considered a criminal act. The Government has not passed legislation against FGM and, in the absence of legislation, the judiciary is not prepared to address the problem.

People With Disabilities

There are no statutes or regulations requiring accessibility for the disabled. No legal discrimination against the physically disabled exists in employment, education, or other state services. Severely disabled individuals subsist primarily through private charity. Less severely disabled individuals are fully accepted in society and encounter no discrimination in employment for which they are physically capable.

Section 6 Worker Rights

a. The Right of Association

The Labor Act of 1990, which applies to all workers except civil servants, specifies that workers are free to form associations, including trade unions, and provides for their registration with the Government. It specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions or striking. About 20 percent of the work force is employed in the modern wage sector, where unions are most active. Roughly 30,000 workers are union members, comprising about 10 percent of the work force.

The Gambian Worker's Confederation and the Gambian Workers' Union are the two main independent and competing umbrella organizations. Both are recognized by the Government.

The Labor Act authorizes strikes but requires that unions give the Commissioner of Labor 14 days' written notice before beginning an industrial action (28 days for essential services). It prohibits retribution against strikers who comply with the law regulating strikes. Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The Court may also forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. Because of these provisions and the weakness of unions, few strikes occur.

Unions may affiliate internationally, and there are no restrictions on union members' participation in

international labor activities. The country applied in June 1995 to join the International Labor Organization. It has been accepted in principle, but must make modifications to its labor and employment laws.

b. The Right to Organize and Bargain Collectively

The Labor Act of 1990 allows workers to organize and bargain collectively. Although trade unions are small and fragmented, collective bargaining takes place. Each recognized union has guidelines for its activities specified by the appropriate industrial council established and empowered by the Labor Act. Union members' wages exceed legal minimums and are determined by collective bargaining, arbitration, or agreements reached between unions and management after insuring that the agreements are in compliance with labor law. No denial of registration has been reported. The act also sets minimum contract standards for hiring, training, terms of employment, and provides that contracts may not prohibit union membership. Employers may not fire or discriminate against members of registered unions engaged in legal union activities.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits compulsory labor, and it is not known to occur.

Although the Government does not formally prohibit forced or bonded labor by children, it is not known to occur. Most children performing customary chores or who are engaged in petty trading do so as a part of an extended family.

d. Status of Child Labor Practices and Minimum Age for Employment

The statutory minimum age for employment is 18 years. There is no effective compulsory education, and because of limited secondary school openings most children complete formal education by age 14 and then begin work. Employee labor cards, which include a person's age, are registered with the Labor Commissioner, but enforcement inspections rarely take place. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading.

Although the Government does not formally prohibit forced or bonded labor by children, it is not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work

Minimum wages and working hours are established by law through six joint Industrial Councils--Commerce, Artisans, Transport, Port Operations, Agriculture, and Fisheries.

Labor, management, and the Government are represented on these councils. The lowest minimum wage is about \$1.16 (12 dalasis) per day for unskilled labor. This minimum wage is not sufficient to provide a decent standard of living for a worker and family. Only 20 percent of the labor force, those workers in the formal economic sector, are covered by the minimum wage law. The majority of workers are privately or self-employed, often in agriculture. Most citizens do not live on a single worker's earnings but share resources within extended families.

The basic legal workweek is 48 hours within a period not to exceed 6 consecutive days. A 30-minute

lunch break is mandated. nationwide, the workweek includes 4 8-hour work days and 2 4-hour work days (Friday and Saturday). Government employees are entitled to 1 month's paid annual leave after 1 year of service. Private sector employees receive between 14 and 30 days of paid annual leave, depending on length of service.

The Labor Act specifies safety equipment that an employer must provide to employees working in designated occupations. The Factory Act authorizes the Ministry of Labor to regulate factory health and safety, accident prevention, and dangerous trades and to appoint inspectors to ensure compliance with safety standards. Enforcement is spotty owing to insufficient and inadequately trained staff. Workers may refuse to work in dangerous situations and may demand protective equipment and clothing for hazardous workplaces.

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