HUMAN RIGHTS WATCH

STATE OF FEAR

Arbitrary Arrests, Torture, and Killings

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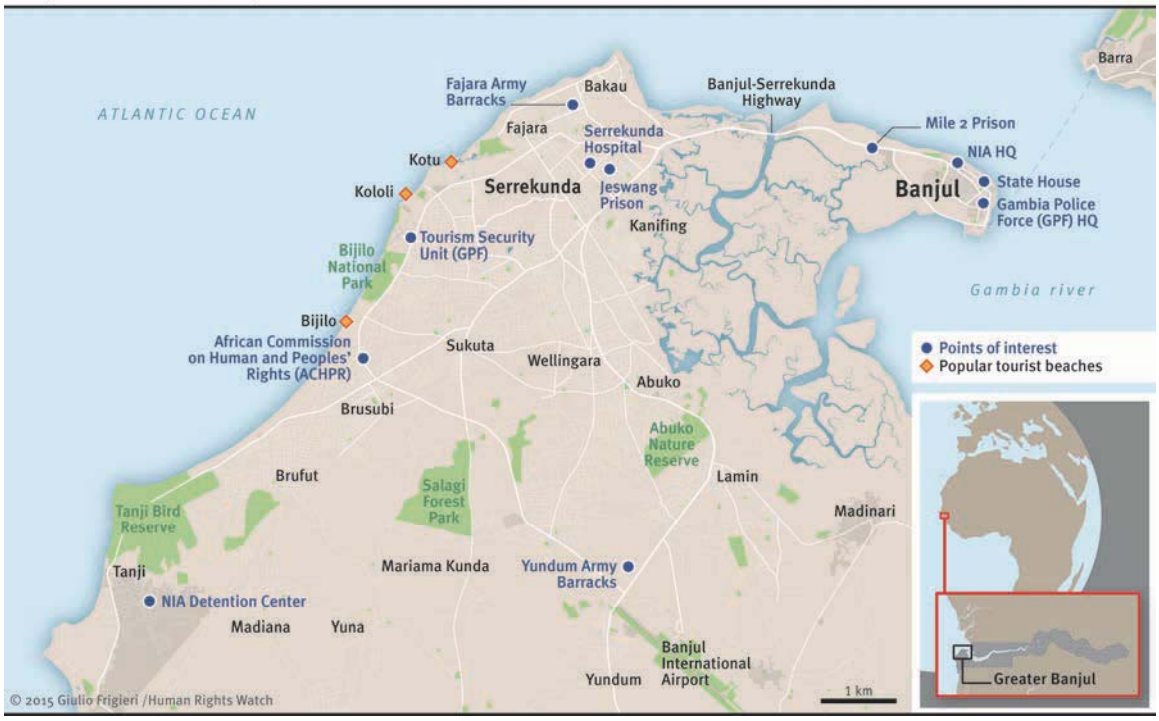
Map of Gambia and Greater Banjul, Gambia

Map of Gambia

Map of Greater Banjul, Gambia



Summary

Since taking power in 1994, President Yahya Jammeh has ruled Gambia with often-ruthless repression of dissent, a tight clamp on virtually all independent media, and the use of state security forces and shadowy paramilitary groups to intimidate and silence all deemed critics of the government. The population lives in a climate of fear in which government justice and accountability for abuses is utterly beyond reach.

The government has targeted journalists, human rights defenders, student leaders, religious leaders, political opposition members, judiciary officials, lesbian, gay, bisexual and transgender (LGBT) people, and security force personnel, among others. LGBT people have faced particularly repressive tactics since the introduction in 2014 of anti-gay legislation imposing life sentences for a series of new "aggravated homosexuality" offenses. The government has also shown little regard for the rights of security force personnel who have been accused, rightly or wrongly, of seeking to overthrow President Jammeh.

This report provides an overview of the human rights situation in the country since President Jammeh came to power in 1994. It documents human rights abuses by state security forces and pro-government paramilitaries, including arbitrary arrest and detention, torture and other ill-treatment, enforced disappearance, unlawful killing, and the role of President Jammeh in facilitating these abuses. The majority of cases in this report are from 2013 to 2015.

The report is based on research conducted in Senegal, Gambia and the United States between October 2014 and August 2015. Human Rights Watch interviewed 38 victims, witnesses, and others with direct knowledge of abuses in Gambia, including numerous former members of the security forces and paramilitary groups. Nearly all those interviewed, including the many who had fled the country, said they were afraid, for themselves and family members, of being seen by the authorities to be assisting human rights research. Many believed they were under surveillance by the intelligence services and spoke at great personal risk.

Human Rights Watch found that the Gambian security services most frequently implicated in abuses were the National Intelligence Agency (NIA), the paramilitary "Jungulers," and

the Serious Crimes Unit and the Police Intervention Unit of the Gambian Police Force. The Jungulers, an unofficial unit of up to 40 personnel largely drawn from the Presidential Guard, was most frequently implicated in serious abuses, carrying out the most egregious crimes. Several former security force members believed the Jungulers and other units take direct orders from the Office of the President.

Among the cases documented in this report are the killing of one journalist in 2004 and the enforced disappearance of another in 2006; the 2005 killing of some 50 West African nationals detained under suspicion of plotting a coup; the 2013 disappearance of two US citizens of Gambian descent; and, the disappearance of several men accused of involvement in coup attempts in 2006 and 2014.

The NIA has been responsible for the arbitrary arrest and detention of countless people, including journalists, civil servants, students, and LGBT people. Those detained for political reasons, including those perceived to support the opposition, who criticize the president or who highlight the current administration's policy failures, and those implicated in coup attempts, are often subjected to torture or other ill-treatment, frequently carried out by the Jungulers. The torture described by victims included severe beatings with wooden clubs, metal pipes, cables, electric wires, and fan belts (thick rubber belt used in automobile engines); near suffocation by tying a plastic bag over the head of the victim and near drowning by half filling the bag with water; trampling with boots; electroshock of body parts including genitals; and, dripping melted plastic bags onto the skin. Many victims also described psychological abuse such as prolonged periods in solitary confinement, mock execution, and repeated threats of torture and death.

The government has targeted journalists, apparently to silence criticism and to suppress negative information about the country to the outside world. Harassment, arrests and physical threats have caused dozens of journalists to flee Gambia in the last two decades according to press freedom organization, Article 19. Gambian journalists no longer in the country described the difficult choice of continuing their journalism and putting themselves and their family at risk, or going abroad. Alagie Abdoulie Ceesay, the manager of independent radio station, Taranga FM, is, at time of writing, facing charges of sedition and publication of false news, after being detained for 11 days without charge at NIA headquarters and tortured in July 2015.

Since 2013, the government has enacted a series of repressive laws that curtail freedom of expression and the media. One new law increases penalties for "providing false information," while another criminalizes anyone using the internet to spread "false news" about the government or civil servants. These have restricted the activities of civil society organizations as well as the media.

Gambians who identify as LGBT or who are perceived as such have increasingly become the target of Jammeh's vitriolic hate speech, discriminatory new laws, and arbitrary detention and mistreatment. Jammeh communicates his anti-LGBT messages over state media, at public gatherings, in official speeches before parliament, and even at the United Nations General Assembly. A dozen LGBT people who had fled the country after passage of legislation in 2014 described frequent arrests and other forms of harassment from the authorities.

Despite the rampant human rights abuses in Gambia, the authorities have conducted few investigations into allegations of torture or ill-treatment by state officials. To our knowledge, no members of the security services or paramilitary groups have been held to account for torture, ill-treatment, or extrajudicial executions.

Gambia's pervasive climate of fear has prevented human rights groups from investigating, documenting, and reporting on human rights violations by the government. The courts appear to be woefully underused by victims seeking redress because of perceived lack of independence of the judiciary and a widespread fear of government retaliation.

Three victims of human rights abuses, or their surviving family members, have taken cases to the Economic Community of West African States (ECOWAS) Community Court of Justice. In 2010, the court found in favor of journalist Musa Saidykhan, who was arbitrarily detained and tortured in 2006, ordering the Gambian government to pay $200,000 in damages. In 2008, the court found in favor of journalist Ebrima Manneh, who was forcibly disappeared in 2006, ordering the government to release Manneh immediately and pay $100,000 in compensation. In 2014, the court decided the case of journalist Deyda Hydara, killed in 2004, finding the government had failed to properly investigate Hydara's assassination, and ordering Gambia to pay $50,000 to his family. To date, Gambia has complied with none of these court rulings.

The Gambian government should urgently institute reforms to meet its obligations under international human rights treaties that it has ratified, including the International Covenant on Civil and Political Rights which protects various rights and freedoms, including freedom of expression, opinion, religion, association, and peaceful assembly. The authorities should cease the arbitrary arrest and detention of journalists, students, LGBT people, and others. Comprehensive steps should be taken to end torture and ill-treatment in custody, as well as incommunicado detention. All those arrested should be promptly brought before a judge and released if not charged with a recognizable offense. Oppressive laws restricting the rights to freedom of expression and discriminating against LGBT people should promptly be abolished.

To prevent such abuses from recurring, the government should thoroughly and impartially investigate abuses by members of the security forces and appropriately prosecute those responsible, regardless of rank. The government should disarm and disband semi-official paramilitary groups, notably the Jungulers.

Gambia's international partners and other governments should consistently and publicly condemn abuses by the Gambian government, and raise human rights concerns directly with Gambian officials until action is taken. They should support human rights and other civil society organizations working to promote human rights and the rule of law. They should press the government to implement the recommendations made by the Human Rights Council during the 20th Universal Periodic Review and the recommendations contained in the 2015 reports of the UN Special Rapporteurs on torture and on extrajudicial executions.

Gambia's small size and population (approximately 1.9 million people) does not diminish the human suffering caused by decades of rampant human rights violations under the Jammeh administration. So long as state security forces and paramilitary groups continue to abuse people with impunity, Gambia's state of fear will persist.

Recommendations

To the Government of Gambia

Ensuring Respect for Fundamental Rights and Accountability for Abuses

- Investigate and prosecute in a prompt, thorough, and impartial manner government officials and members of the security services and paramilitary groups implicated in unlawful killings, enforced disappearances, torture, and other abuses in accordance with international fair trial standards.
- Issue and enforce clear instructions to all military personnel that those responsible for unlawful killings, enforced disappearances, torture, arbitrary arrests and other abuses, will be punished to the full extent of the law.
- Ensure that coerced confessions are not admitted as evidence in trial; empower prosecutors to investigate and prosecute alleged torture and other ill-treatment by law enforcement, the military, and domestic intelligence services, free from obstruction or interference.
- Establish an independent and impartial inquiry into alleged human rights violations committed by Gambian security and intelligence services; ensure sufficient protection for victims and witnesses who come forward.
- Increase the capabilities of the National Agency for Legal Aid, and ensure its independence from the executive.
- Comply with orders from the Economic Community of West African States (ECOWAS) Community Court of Justice in the cases of Deyda Hydara, Ebrima Manneh, and Musa Saidykhan.
- Implement the recommendations of the UN Human Rights Council during the 20th Universal Periodic Review and those of the UN Special Rapporteurs on torture and on extrajudicial executions.
- Invite the UN Special Rapporteurs on freedom of speech and opinion, and on the situation of human rights defenders, to conduct unrestricted site visits to Gambia.
- Invite African Commission on Human and Peoples' Rights Special Rapporteurs on prisons and conditions of detention; death penalty and extra-judicial, summary or

arbitrary killings; freedom of expression and access to information; and human rights defenders, to conduct unrestricted site visits.

Ending Mistreatment in Detention

- Ensure that persons taken into custody are promptly brought before a judge, and held only in official places of detention; that all detainees are provided with immediate and regular access to family members and legal counsel; and, that criminal proceedings are in accordance with international fair trial standards.
- Publicly share information about the whereabouts of people that have been arbitrarily or illegally detained or forcibly disappeared, and immediately release them if they have not been appropriately charged with a recognizable offense.
- Ensure that interrogations are conducted only at official detention centers and in the presence of defense counsel. Prohibit all interrogations by members of paramilitary groups such as the Jungulers.
- Ensure that civilians are only detained in official civilian law enforcement facilities, and not held in facilities controlled by the military or paramilitary groups.
- Allow visits to all places of detention by: representatives of independent human rights and humanitarian organizations, lawyers, medical professionals, and members of the local bar association.

Respecting Basic Liberties and the Rule of Law

- Publicly affirm the rights to freedom of expression, opinion, religion, association, and peaceful assembly.
- Disarm and disband the Jungulers and other illegal paramilitary groups.
- Repeal all legislation and end all policies interfering with the rights to freedom of expression, association, and peaceful assembly, including the offenses of sedition (section 52), criminal libel (section 178), “spreading false information” (section 181) in the Criminal Code, and the amendment of the Information and Communication Act of 2013 that includes censorship of online expression.
- Repeal sections 144, 145 and 147 of the penal code that criminalize all actual or attempted consensual same-sex intimacy between consenting adults.

- Publicly condemn all acts of violence and discrimination against individuals on the grounds of their real or perceived sexual orientation or gender identity and hold those responsible to account.
- Appropriately prosecute government officials and others who engage in anti-LGBT hate speech that amounts to incitement.
- Consistently and publicly condemn government officials who engage in anti-LGBT speech and hold them to account.
- Establish a National Human Rights Commission, in line with the Paris Principles on human rights institutions.
- Expand the Ombudsman's mandate to include investigation into human rights abuses, and ensure the unit has the resources and capacity to implement this larger mandate.

To the Economic Community of West African States, African Union, European Union, United Nations, and the United States, the United Kingdom and Other Concerned Governments and International Donors

- Consistently and publicly condemn serious human rights violations in Gambia, and publicly and privately raise concerns with government officials at all levels. Press officials to ensure accountability for abuses by state security forces.
- Call for the immediate and unconditional release of all persons held for the peaceful expression of their political views.
- Consistently and publicly condemn anti-gay speech by President Yahya Jammeh and other officials, and press for prosecutions against those responsible for incitement against the LGBT community.
- Consider the enactment of travel bans or other targeted sanctions on officials responsible for serious human rights abuses, and ban them from participating in foreign-funded programs.

Support Gambian government efforts to establish a legal aid system to ensure that defendants have access to a lawyer from the time of arrest.

- Support human rights and civil society organizations working to provide legal aid to victims, to monitor and expose abuses, and to promote government respect for the rule of law.
- Strongly urge the Gambian government to comply with the rulings of the ECOWAS Community Court of Justice in the cases of Deyda Hydara, Ebrima Manneh, and Musa Saidykhan.

To United Nations Human Rights Council Member States

- Press for the implementation of the Human Rights Council recommendations during the 20th Universal Periodic Review and the recommendations contained in the 2015 reports of the UN Special Rapporteurs on torture and on extrajudicial executions.
- Ask the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression and on the situation of human rights defenders to consider requesting visits to Gambia.
- Adopt a resolution to establish regular monitoring, reporting, and interactive dialogue on the human rights situation in Gambia, unless the government takes substantial steps to improve respect for human rights and to fairly prosecute those responsible for past abuses.

To the African Commission on Human and Peoples' Rights (ACHPR)

- Consistently and publicly condemn human rights violations in Gambia, and publicly and privately raise concerns with government officials at all levels. Press officials to ensure accountability for abuses by state security forces.
- Request that Gambia submit its long-overdue report on the general human rights situation in the country.
- Conduct a mission to Gambia to assess the government's compliance with the African Charter on Human and Peoples' Rights.
- Request an invitation from Gambia to allow ACHPR Special Rapporteurs on prisons and conditions of detention; death penalty and extra-judicial, summary or
- arbitrary killings in Africa; freedom of expression and access to information; and human rights defenders, to conduct site visits and share their findings publicly.

Methodology

This report is based on research conducted by Human Rights Watch researchers from October 2014 to August 2015, including field research conducted over three weeks in January and April 2015 in Senegal, and over five days in April 2015 in Gambia.

Human Rights Watch conducted interviews with 38 victims of and witnesses to human rights violations, including journalists, rights activists, LGBT people, opposition party members, civil servants, and former military, security, and intelligence personnel. Human Rights Watch also conducted interviews with representatives of domestic and international nongovernmental organizations, diplomats, and United Nations officials.

Interviews were conducted in-person and over the phone in English with the informed consent of the interviewee. Witness and victim interviews were conducted individually in secure locations, determined by the interviewee. No one was compensated for being interviewed.

The report also incorporates background research conducted by Human Rights Watch in 2007 and 2008, including interviews with 21 victims, witnesses, and perpetrators of abuses that occurred between 1996 and 2007.

Names and other identifying information of many victims and witnesses have been withheld to ensure their safety and that of their families. Details in some testimonies have been withheld to protect the identity of the interviewee. The vast majority of victims and witnesses were fearful that their cooperation with Human Rights Watch, in respect of this research, would put them or their family members at risk of reprisal by Gambian security services. Gambians in exile who speak out also feared state retaliation against relatives in the country.

On August 11, 2015, Human Rights Watch delivered to the Gambian Embassy in Washington, DC, our findings and recommendations, and a request for the government's written response. On August 25, Human Rights Watch met with the embassy and again presented our findings. We agreed that any responses received by September 4 would be reflected in our report. As of September 4, Human Rights Watch had received no response from the government.

I. Background

The Republic of The Gambia is the smallest country on continental Africa, with a population of roughly 1.9 million,[1] and a land mass about the size of Jamaica[2]. Save for a western seaport, the country is surrounded by Senegal and is known abroad for its beaches, wildlife, and lively culture that attract tourists largely from Europe.

Gambia is known for its beautiful beaches, such as this one south of Banjul. © 2008 Geoff Moore/REX

Despite its longstanding poor human rights record, Gambia is home to the African Commission on Human and Peoples' Rights (ACHPR), founded in 1987 to protect and promote human rights on the continent. Gambia gained independence from the United Kingdom in 1965, and became a republic in 1970 under the leadership of its then prime minister and later first president, Dawda Jawara. However, its political history has been regularly punctuated by real or alleged coup attempts.

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[1] The World Bank, "Country Data: The Gambia," 2014, http://data.worldbank.org/country/gambia (accessed June 10, 2015).

[2] My Life Elsewhere, "Country Size Comparison Tool: Size of Jamaica vs. Gambia, The," 2015, http://www.mylifeelsewhere.com/country-size-comparison/jamaica/gambia (accessed July 21, 2015).

Gambia's current president, Yahya Jammeh, took power from Jawara as a 29-year-old lieutenant in a bloodless coup on July 22, 1994, promising to step aside after three months to allow democratic elections to take place. In 1996, Jammeh was elected president in widely criticized elections, characterized by intimidation and violence, in which the main opposition parties were banned from participating.[3] Jammeh has since ruled for over two decades, re-elected in 2001, 2006, and 2011, in multiparty elections with varying score cards. The 2001 and 2006 victories were deemed, by the United Nations, as "relatively free and fair."[4] However, the country lacked a genuinely free media and robust political opposition parties. The 2011 election was denounced by a regional body, the Economic Community of West African States (ECOWAS), as neither free nor fair due to intimidation of voters by the ruling party, and it did not send election observers.[5]

Since taking power, Jammeh has maintained a tight grip on the country, surviving at least four coup attempts - the most recent on December 30, 2014.

A billboard, with the image of President Yahya Jammeh, urging people to vote for Gambia's ruling party, the Alliance for Patriotic Reorientation and Construction (APRC), in Serekunda, a town west of the capital, Banjul. © 2015 Jane Hahn

Despite nurturing the pretense of democratic governance, Jammeh has, over the last two decades, consolidated power in the executive

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[3] US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Report on Human Rights Practices 1997 – Gambia," January 30, 1998, http://www.refworld.org/docid/3ae6aa4110.html (accessed June 12, 2015).

[4] "Secretary-General calls for free, fair, and peaceful election in Gambia; Sends special envoy to reaffirm UN commitment," United Nations press release SG/SM/8002-AFR/347, October 17, 2001, http://www.un.org/press/en/2001/SGSM8002.doc.htm (accessed Jun 9, 2015); "The Gambia: UN envoy says recent elections were free but democracy needs support," United Nations press release, October 6, 2006, http://www.un.org/apps/news/story.asp?NewsID=20167#.VXtTwU3bKUk (accessed June 9, 2015).

[5] "Gambian Polls Close in Election Denounced by Ecowas," *BBC News*, November 24, 2011, http://www.bbc.com/news/world-africa-15869012 (accessed June 11, 2015).

branch, creating one of the most repressive and authoritarian administrations on the continent. The dominance of the executive over other branches of government has largely erased any separation of power between the executive, the legislature, and the judiciary. Jammeh is also currently the minister of defense and minister of petroleum.

In 1994, shortly after taking power, Jammeh banned all political parties. He lifted the ban in August 1996, except for the three that existed before he came to power, including the People's Progressive Party (PPP), which was banned from participating in politics until 2001. The PPP was the ruling party at the time of the 1994 coup.

Currently, there are several opposition parties in Gambia, but opposition leaders and party members are frequently arbitrarily arrested and jailed. Their activities often result in intimidation by state security forces, or are blocked by cumbersome administrative hurdles, such as requiring opposition parties to obtain a permit to use loudspeakers.[6] Senior civil servants perceived to support the opposition have appeared to be targeted for arbitrary arrest and dismissal.[7] Gambia's National Assembly counts just one opposition and four independents out of a total of 53 members of parliament.

In June 2015, the government proposed an amendment to the Elections Act that would increase the fee to register a political party to 1 million dalasi (US$24,527), an increase of 10,000 percent. The National Assembly passed the bill on July 7, cutting the fines in half, requiring presidential candidates to pay 500,000 dalasi ($12,262). Opposition leaders interpreted the move as a way to price potential opponents out of the race and to "scuttle the growth of multiparty democracy in the Gambia."[8] Presidential elections are planned for 2016.

Gambian human rights and pro-democracy groups have very limited space to promote good governance and respect for human rights. Due to highly restrictive legal and administrative frameworks, very few NGOs operate freely in Gambia. Those that do "operate freely" avoid monitoring and reporting on rights abuses, and, instead, focus on

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[6] James Butty, "Gambia Opposition Leader Cannot Use PA System to Address Supporters," *VOA News*, April 17, 2015, http://www.voanews.com/content/gambia-opposition-denied-permit-too-use-pa-system-to-address-supporters/2723413.html (accessed June 10, 2015).

[7] Human Rights Watch interviews with opposition leaders in May 2015 and December 2007.

[8] "Gambia: Presidential Candidates Face US$25,000 Electoral Registration Fee," *Guardian*, June 25, 2015, http://www.theguardian.com/world/2015/jun/26/gambia-cost-of-registering-to-stand-for-president-increased-10000-times (accessed June 26, 2015).

less sensitive issues, such as education and health. The few that do raise human rights issues risk harassment and persecution from the authorities.

International organizations working on human rights and democracy have also faced challenges working in Gambia. In October 2007, two Amnesty International researchers were detained with a Gambian journalist for six days without charge by authorities while on a research mission to visit detention centers.[9] The National Democratic Institute (NDI), a United States-based non-partisan NGO with a loose affiliation to the Democratic Party, which aims to strengthen democratic institutions globally, last worked in the Gambia in 2007.[10]

In 2012, the Gambian government started discussions on establishing a National Human Rights Commission to support the administration in meeting its obligations under international and regional human rights treaties. It has yet to set up the commission.[11]

Progress on Education and Health

Despite its poor human rights record overall, Gambia has made some progress on fulfilling Gambians' rights to health and education. In 2014, the government committed to providing free universal primary education and gross school enrollment rates were above average for the region at 97 percent.[12] The government has also made significant progress in raising literacy rates.[13] Gambia has improved maternal and child health, largely through better access to health services and improved emergency obstetric

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[9] The two researchers were Tania Bernath and Ayodele Ameen, and the Gambian journalist was Yahya Dampha. "Gambian 'Spy' Journalist Mission," *BBC News*, October 24, 2007, http://news.bbc.co.uk/2/hi/africa/7059474.stm (accessed June 29, 2015); Amnesty International, "Gambia: Fear Rules," 2008, report AFR 27/003/2008. http://www.amnestyusa.org/research/reports/gambia-fear-rules (accessed June 29, 2015).

[10] Human Rights Watch interview with Gemima Barlow, National Democratic Institute Anglophone West Africa director, May 28, 2015.

[11] Mustapha Darboe, "National Human Rights Commission to Address Gambia's Rights Issues," *The Standard*, April 22, 2015, http://standard.gm/site/news/6821-NATIONAL-HUMAN-RIGHTS-COMMISSION-ADDRESS-GAMBIAS-RIGHTS-ISSUES.html (accessed June 22, 2015); Sainey M.K. Marenah, "Gambia Closer to Setting up Human Rights Commission," *The Point*, May 24, 2012, http://thepoint.gm/africa/gambia/article/gambia-closer-to-setting-up-human-rights-commission (accessed June 18, 2015).

[12] The Ministry of Basic and Secondary Education in collaboration with The Gambia National Commission for UNESCO, "Gambia: Education for All 2015 National Review Report," December 2014, http://unesdoc.unesco.org/images/0023/002314/231425e.pdf (accessed June 26, 2015).

[13] The Republic of The Gambia Ministry of Finance and Economic Affairs, "Level of Achievement of the Millennium Development Goal (MDGs): MDG Status Report, 2014," June 2014, http://www.undp.org/content/dam/undp/library/MDG/english/MDG%20Country%20Reports/Gambia/MDG%20STATUS%20REPORT%202014%20FINAL.pdf (accessed July 8, 2015).

care.[14] Vaccination rates have also increased which have in turn reduced mortality as a result of preventable diseases.[15] In 2007, President Jammeh, who has since said he can "cure Ebola," started an herbal treatment program claiming to cure people living with HIV and AIDS.[16] However, anti-retroviral drugs are available to people living with HIV in Gambia and 86 percent of people with "advanced HIV infections" had access to ARV treatment in 2013.

People shop at a market in Serekunda, west of Banjul. © 2008 Ikiwaner

[14] The Republic of The Gambia Ministry of Finance and Economic Affairs, "Level of Achievement of the Millennium Development Goal (MDGs): MDG Status Report, 2014," June 2014.

[15] World Health Organization (WHO), "Country Profiles, The Gambia: Analytical Summary," 2014, http://www.aho.afro.who.int/profiles_information/index.php/Gambia:Analytical_summary_Immunization_and_vaccines_development (accessed June 28, 2015).

[16] "President's 'HIV Cure' Condemned," *BBC News*, February 2, 2007, http://news.bbc.co.uk/2/hi/africa/6323449.stm, accessed July 2, 2015.

Economic Downturn

The Gambian economy is largely dependent on peanut exports, tourism, and foreign assistance, which include remittances sent by Gambians in the diaspora. In 2012, diaspora remittances accounted for close to 15 percent of Gambia's GDP.[17] Every year, tens of thousands of European tourists flock to Gambia, mainly from the United Kingdom.[18] But since the 2014 outbreak of the Ebola virus in several West African countries, Gambia has seen a sharp decline in tourism, despite having no confirmed cases of the disease.[19]

Economic hard times have also resulted in persistent migration – Gambia is proportionally one of the biggest exporters of economic migrants to Europe. In 2014, the number of Gambians seeking asylum in European Union member states almost quadrupled since 2013.[20] Countless more have taken the perilous journey through North Africa, arriving in Europe on overcrowded boats in the Mediterranean since spring 2015.

Gambia relies heavily on external assistance, largely from the EU, which provided €73 million ($82 million) from 2008 to 2013 under the European Development Fund (EDF), which allocates funding to African, Caribbean and Pacific states with respect to human rights as an essential element of cooperation.[21] Recent EDF funding for Gambia focused on infrastructure and governance projects, was blocked before the last tranche in December 2014, due to EU concerns over human rights abuses in the country. The IMF gave the country an injection of $10.8 million in 2015 for emergency financial budgeting assistance under the Rapid Credit Facility.[22]

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[17] Omar Kebbeh, "Migration, Remittances, and Economic Growth: The Case of the Gambia," *The World Bank Blog,* May 3, 2012, http://blogs.worldbank.org/peoplemove/migration-remittances-and-economic-growth-the-case-of-the-gambia (accessed June 12, 2015).

[18] "IMF staff concludes mission to The Gambia," International Monetary Fund (IMF) press release No. 15/06, January 14, 2015, http://www.imf.org/external/np/sec/pr/2015/pr1506.htm (accessed June 12, 2015).

[19] End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes (ECPAT), "Assessment on Commercial Sexual Exploitation of Children Related to Tourism and Reporting Mechanisms," 2014,http://www.ecpat.net/sites/default/files/Overall%20report%20%20Assessment%205%20African%20countries.pdf (accessed June 16, 2015).

[20] Eurostat, "Countries of Origin of (non-EU Asylum Seekers in the EU-28 Member States, 2013 and 2014," May 8, 2015, http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Countries_of_origin_of_(non-EU)_asylum_seekers_in_the_EU-28_Member_States,_2013_and_2014_YB15_III.png#filehistory (accessed June 28, 2015).

[21] European External Action Service, "EU Relations with The Gambia," 2014, http://eeas.europa.eu/gambia/index_en.htm (accessed June 28, 2015).

[22] "IMF executive board approves US$10.8 mission disbursement under the rapid credit facility for The Gambia," IMF press release No. 15/155, April 2, 2015, http://www.imf.org/external/np/sec/pr/2015/pr15155.htm (accessed June 12, 2015).

II. State Agents of Abuse

> Abuses are a day-to-day activity of security forces… In many cases, when a suspect is arrested and taken to the serious crime unit, it doesn't matter whether you did the act or not: you have to confess to it. They not only threaten you, they beat you.
>
> Sometimes they open the suspect's anus and put pepper there. They pour water over you. They will do anything to force you to confess. They get you to sign that paper and that is their evidence. I have seen it with my own eyes. It is a common occurrence.
>
> – Former Gambian security officer in exile, June 2015

Gambia's state security services have been responsible for numerous serious human rights violations against those deemed to be opponents of the government. Victims and witnesses most frequently invoked the National Intelligence Agency (NIA) and the Serious Crimes Unit and the Police Intervention Unit – both within the Gambian Police Force – and to a lesser extent, the National Drug Enforcement Agency (NDEA). To the knowledge of Human Rights Watch, not a single member of any of these agencies has ever been convicted for the abuses in which they have been allegedly and credibly implicated. In his May 2015 report, the UN's Special Rapporteur on extrajudicial, summary or arbitrary executions documented only a handful of state investigations into police abuse, none of which resulted in convictions.[23]

The targets of NIA arrests, detention, and mistreatment have included journalists, students, opposition party members, civil servants, soldiers, NIA officials, LGBT people, human rights defenders, and religious leaders. As discussed below, many cases of torture within the NIA headquarters were perpetrated by a paramilitary group who appeared to work in coordination with the NIA.

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[23] UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to the Gambia, A/HRC/29/37/Add.6, May 17, 2015.

The NIA was created by decree in June 1995, during the 1994-1996 rule of the Armed Forces Provisional Ruling Council military junta, which declared its decrees exempt from legal challenge. The NIA was mandated to protect state security, and reports directly to the executive.[24] Even after the adoption of the 1997 constitution, the NIA appears to have interpreted its mandate to have wide-reaching powers to arrest and detain, often without regard to the 72-hour limit on detention defined in the constitution. The police, who are under the minister of interior, are responsible for domestic security; but, the NIA often assumes police functions, including arresting, detaining, and interrogating criminal suspects.

Several units implicated in abuses, including excessive use of force in responding to protests and intimidating civil society, operate under the direction of the inspector general of police. These include the Serious Crimes Unit, the Task Force Unit, the Police Intervention Unit, and the "Bulldozers" – a group combining several law enforcement units, including a paramilitary unit, used to suppress civil disturbances.

Together, they are responsible for engendering a state of fear upheld by campaigns of intimidation, arrests, detention, disappearances, torture, and extrajudicial killings. Several former members of intelligence and the military told Human Rights Watch that they believe the reporting and command structures as prescribed by Gambian law are no longer relevant to the actual operations of these groups, thus hindering accountability and promoting widespread fear and impunity for the abuses committed by their agents.

Members of the Police Intervention Unit (PIU), an armed unit of the Gambian Police Force. The PIU has been implicated in abuses including use of excessive force at public demonstrations.
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[24] US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Report on Human Rights Practices 1995 – Gambia," January 30, 1996, http://www.refworld.org/docid/3ae6aa3a8.html (accessed June 30, 2015).

Four former security service members and other knowledgeable sources told Human Rights Watch that they believe commanders of a few distinct security units take direct orders from the executive branch. A former security officer with direct knowledge of operations in the Serious Crimes Unit said:

> The head of the Serious Crimes unit gets his commands directly from state house. Many times, when an order is given, you will be told this is a presidential order so you have to do it the way he has demanded. You cannot refuse. The first priority of the Gambian security is to protect the president, not the people of the Gambia.[25]

There is also at least one unofficial paramilitary group, known as the "Jungulers," that former members and other government insiders believed reports directly to the executive and operates outside the structure of law enforcement agencies.

Members of the paramilitary group known as the Jungulers, The Jungulers have been implicated in serious human rights violations, including torture, enforced disappearances, and killings.

[25] Human Rights Watch interviews with former members of Gambian security services, June 13, 2015, and April 17, 2015.

Victims of abuses most frequently cited the Jungulers, a group that was formed around 1996. The unit has also been known as "The Black Boys," "Black Black," or "Ninja." Former members of the Jungulers, Jammeh's government, and the NIA, as well as numerous victims told Human Rights Watch that the unit is an amorphous group with fluid membership and comprised at any given time of up to 40 personnel drawn from the Presidential Guard. All of these interviewees said they believed that the Jungulers were an elite unit whose commander takes orders directly from the president.[26]

A former member of the military who was a member of the Jungulers for over four years said:

> The way the Jungulers operate is a commando team that works with Yahya Jammeh directly without intermediary. Jammeh formed that team only for his own interests; it is not in the interests of the Gambia. When he wants to torture you, he uses the Jungulers team to torture you. Or if he wants to arrest you secretly, he uses this Jungulers team. Or when he wants to kill you without anyone finding out, they will just kill you and throw you [away].[27]

Gambian President Yahya Jammeh, surrounded by the presidential guard, leaves a central Banjul polling station after casting his vote for president in the 2006 elections. © 2006 AP Photo/Rebecca Blackwell

[26] Human Rights Watch interviews with former members of the security forces and former members of the Jungulers, on April 17, May 7, June 16, 2015.

[27] Human Rights Watch interview with former member of the Jungulers, April 17, 2015.

Government insiders and witnesses to abuses say that the Jungulers typically wear all black clothing, cover their faces, and are armed with machetes and firearms, including Kalashnikov assault rifles. They have been implicated in numerous incidents of torture and extrajudicial executions. No member of the group has been investigated or held to account in the Gambian courts, perpetuating a climate of fear and intimidation in Gambian society.

In most cases of torture documented by Human Rights Watch, the abuse took place in the NIA headquarters in Banjul, Mile 2 prison's maximum security wing or an unofficial detention center and often in the presence of senior NIA officials. Even when a different security service was responsible for an initial arrest and detention, torture was almost always carried out by the Jungulers and to a lesser extent by NIA officials.

The National Intelligence Agency headquarters in Banjul.

Other places of arbitrary detention include: Mile 2 prison in Banjul; Jeshwang prison, 10 kilometers east of Banjul; Janjanbureh prison, 200 kilometers east of Banjul, in the remote Central River Region; the NIA center in Tanji, 20 kilometers south of Banjul; and, at police stations throughout the country.

Unofficial detention centers described by government insiders and former detainees include: empty buildings in Jammeh's home town of Kanilai, near the southern border with Senegal, empty warehouses at the site of the old Banjul airport terminal, and locations in the remote eastern part of the country.

III. Killings, Enforced Disappearances, and Arbitrary Arrests

Extrajudicial Killings

Since Jammeh came to power in 1994, state security forces and paramilitary groups such as the Jungulers have extrajudicially executed dozens of people. Many others were forcibly disappeared and are presumed dead. Most of those killed or "disappeared" were critics of the government, opposition activists or those suspected of supporting the overthrow of Jammeh's government. No one has been brought to account for these abuses.

Deyda Hydara, a Gambian journalist and an outspoken critic of the Jammeh administration, was 58 when he was killed on December 16, 2004. Photo courtesy of Amnesty International

An emblematic case of the government's disregard for the right to life is that of Deyda Hydara, an outspoken critic of the government, editor of *The Point* newspaper, and then-president of the Gambia Press Union. On December 16, 2004, alleged Jungulers fatally shot Hydara in his car as he was driving home with two colleagues. The killing happened on the eve of *The Point's* 13th anniversary, and just days after Hydara vocally opposed legislation that imposed prison sentences for defamation and sedition, increased registration fees for media outlets by more than 300 percent, and required newspaper owners to put their homes as security for payment of fines and legal judgments.

A former Junguler who, as a driver, took part in the operation in which Hydara was killed, told Human Rights Watch that Hydara was shot and killed by members of the Jungulers.

My fellow Jungulers were given a list of 22 people[28] and told to kill them. On the list were politicians, journalists, people who he [Jammeh] feels are a threat to him. Deyda Hydara was on that list. It happened at night on the Sankung Sillah road. When he came, we

[28] A few of the 22 people are among those "disappeared" (including Haruna Jammeh, Masie Jammeh and Jajasa Kujabi) mentioned below in Enforced Disappearances section.

blocked Hydara's vehicle in between the two taxis, and shot at him. Then one junguler went up close and shot him again.[29]

In June 2014, the ECOWAS Community Court of Justice ruled against Gambia for failing to properly investigate the killing and ordered the government to pay damages to Hydara's family. At time of writing, the government has yet to comply with the ruling and no one has been held accountable for Hydara's killing. [30]

In July 2005, Junguler paramilitaries summarily executed over 50 migrants who had been detained after arrival in Gambia. According to the Commonwealth Human Rights Initiative, which went to Ghana in 2007 to investigate the incident,[31] a group of 44 Ghanaians and 15 other African nationals were detained on a beach in Gambia after having been brought there by human traffickers who had promised to take the men to Europe. The men were detained on suspicion of intending to overthrow the Gambian government. They were held for several days without charge at the Naval Headquarters in Banjul, before being divided into groups and executed. A joint UN-ECOWAS fact-finding mission found in 2009 that the Gambian government was not to blame but that "rogue elements" in Gambia's security services were responsible for the killings.[32]

A former Junguler who took part in the operation in which the men were killed, told Human Rights Watch that he was ordered to drive the migrants in small groups to a field near Kanilai, the president's village, where two Jungulers then shot the men in several groups. He said eight others were killed with machetes in Brufut, a few kilometers from Banjul:

I was stationed in Kanilai when they came with them [the migrants] from Kombo, Banjul area. We took them from Kanilai, just two by two, and dropped them at the border; someone else would take them into the bush where two Jungulers were waiting. Then

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[29] Human Rights Watch interview with former Junguler, May 15, 2015

[30] UN Special Rapporteur report (section IV, 15) on extrajudicial, summary or arbitrary executions, Christof Heyns, says the government has failed to implement the three decisions of the ECOWAS court, May 11, 2015.

[31] Office of the High Commission for Human Rights (OHCHR), "Commonwealth Human Rights Initiative, Africa Office: Submission on Human Rights Cases in the Gambia," 2010, http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/GM/CHRI_UPR_GMB_S07_2010_CommonwealthHumanRightsInitiative.pdf (accessed June 29, 2015).

[32] US Department of State, Bureau of Democracy, Human Rights, and labor, "Country Report on Human Rights Practices 2009 – The Gambia," March 11, 2010, www.state.gov/documents/organization/160123.pdf (accessed June 28, 2015).

shortly after, we heard gunshots, so then we turned the car around and went back to get two more. Some of them were scared because they knew they were going to die. The Jungulers dumped the bodies in a big well at Yunor, an abandoned village on the Senegalese side of the border, not far from Kanilai.[33]

Only eight bodies were eventually found, six of whom were Ghanaian. The Gambian government agreed to arrest and prosecute those involved, and to make financial contributions to the families of the six Ghanaians killed, in addition to exhuming and repatriating the six bodies to their families in Ghana. While the Gambian government contributed to the funeral costs of the six, they have not paid compensation to the families. The Gambian government conducted no further investigations, and none of the alleged perpetrators, some of whom were named in the UN-ECOWAS report, have been prosecuted for their alleged involvement in the killings.[34]

A former Junguler told Human Rights Watch that in July 2005, he saw Jungulers kill two men, Haruna Jammeh, relative of President Jammeh, and former NIA director Jasaja Kujabi, and one woman, Masireh Jammeh, also a relative of Jammeh and a former state house employee.[35]

The government has been credibly implicated in more than a dozen extrajudicial executions of those implicated following coup attempts in 2006 and 2014. Most of the victims were current or former members of the security services.

In March 2006, after an attempted coup was thwarted, security forces detained 50 suspects, several of whom were held in prolonged detention at NIA headquarters. The whereabouts of five soldiers suspected of being involved in the coup plot remain unknown. The government maintains that they escaped while being transferred from Mile 2 prison to Janjanbureh prison, but the government has never investigated their disappearance.[36]

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[33] Human Rights Watch interview with former Junguler, May 15, 2015.

[34] Amnesty International, "20 Years of Fear in the Gambia: Time for Justice," July 22, 2014.

[35] Mustapha Jallow, "Detentions without Trial, Disappearances Persist in 2015," *Foroyaa Newspaper*, January 19, 2015, http://www.foroyaa.gm/archives/3339 (accessed June 20, 2015); Human Rights Watch interviews with former Jungulers in June and July, 2015.

[36] UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions.

A former member of the Jungulers told Human Rights Watch the five soldiers were tortured and that they believed they were killed by the Jungulers. While he was posted at Mile 2 security wing, his fellow Jungulers removed the five detainees and returned them to their cells the following day with visible signs showing that they had been tortured, including marks on their bodies from beating and problems with their eyes, reportedly due to a common torture method in which a polythene bag is tied tightly over the victim's head:

> The five were held at Mile 2 security wing, not NIA [headquarters]. And instead of taking them to court, they were just tortured seriously. And after that serious torture, they were taken to Kanilai and killed by the Jungulers. I did not see the bodies but I saw them take those people while they were still alive. They said they had escaped, but when they came back, my fellow Junguler told me they had killed all five of them – Mangifi Corr, Alieu Ceesay, Ebou Lowe, Alpha Bah and the former NIA director Daba Marenah.[37]

The government reported that during the course of an attempted coup in December 2014, security forces killed four coup plotters.[38] However, photographic evidence suggests that three of those killed (the fourth escaped to Germany) had actually been tortured and executed while in custody. Mobile phone images obtained by Human Rights Watch show three bodies, whom family members and former security personnel were able to identify as Lamine Sanneh, Njaga Jagne and Alhagie Nyass – three of the men named by Gambian authorities. Three images, taken at night, show the naked torsos of each man; two of these images show pools of blood on the ground behind their heads. Two other images each show a body with arms and ankles tied with rope. One image, taken in daylight, appears to show the three bodies in a row, not bound by rope. The UN Special Rapporteur on extrajudicial and unlawful killings noted in his June 2015 report that, "if the photographs are authentic, they raise questions about circumstances that led to their deaths."

In January, the United Nations Office of West Africa (UNOWA) offered to assist with an investigation into the events surrounding the December 2014 coup attempt, but the Gambian government did not accept the offer.

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[37] Human Rights Watch interview with former Junguler, April 17 2015.

[38] Statement made by Neneh MacDouall-Gaye, Minister of Foreign Affairs, regarding the December 30 attack [January 9, 2015].

Enforced Disappearances

For over a decade, Gambian human rights groups in the diaspora have documented enforced disappearances. They provided Human Rights Watch with a list of hundreds of human rights victims, including 43 who allegedly "disappeared" between 1994 and 2015.[39] Most of those listed as disappeared were former members of security forces suspected of involvement in attempted coups.

A former member of Gambia's security services, who was illegally detained in solitary confinement from 1994 to 1995, described to Human Rights Watch the NIA's wide-reaching powers:

> NIA can arrest anybody. They have officers in the army; they have people in every sector of the Gambian life. So, you cannot know the strength. They cover the country. You cannot know them. They could be your own sister…They are responsible for anything. They can arrest and torture. They have been given the power to arrest, detain, torture, anything, anytime… to arrest, even detain incommunicado.[40]

FOROYAA
THE PUBLIC EYE
FREEDOM
FOROYAA QUOTE
9 Fisheries Officials arraigned, 4 Remanded
SEE PAGE 2
13 YEAR OLD, TWO OTHERS DETAINED FOR 33 DAYS
SEE PAGE 3
Bai Jobe Njie Missing for 32 Days Now
SEE PAGE 3
Sheikh Tijan Sosseh ordered to open his Defence
HOW MANY PEOPLE ARE UNDER DETENTION WITHOUT TRIAL? DETAINEES HAVE RIGHTS WHICH SHOULD NOT BE VIOLATED
PDOIS STATEMENT ON 22ND JULY 2013

FOROYAA
THE PUBLIC EYE
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FOROYAA QUOTE
MAMBURY NJIE STILL HOSPITALIZED BY NIA
SEE PAGE 3
Poor Sanitation poses health threat at Brikama Market
SEE PAGE 3
Doudou Touray Missing for 30 Days Now
SEE PAGE 3
Business Tycoon Testifies in Lang Conteh's case
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WHERE ARE WE HEADING AND WHAT DO WE NEED TO TALK ABOUT?
PDOIS STATEMENT ON 22ND JULY 2013

FOROYAA
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Papa Faal and Alagie Barrow granted bail
SEE PAGE 2
KEBBA TOURAY STILL HELD AT NIA FOR 13 DAYS
Dr. Bah: "I have served my country to the best of my ability"
Metta Njie (Mother of Lt. Col. Sanneh) Missing for 36 Days Now
SEE PAGE 3
Update on Ministry of Trade on New licence
SEE PAGE 2
WHO WILL SAVE THE CHILDREN FROM DETENTION IN CONNECTION WITH 30TH DECEMBERPTHE GOVERNMENT SHOULD BE
PDOIS STATEMENT ON 22ND JULY 2013

Foroyaa **(meaning "freedom" in local Mandinka language), a print and online newspaper based in Banjul, reports alleged arbitrary detentions and enforced disappearances.© 2015 Private**

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[39] Committee for the Restoration of Democracy in The Gambia (CORDEG), Coalition for Change-the Gambia (CCG), the Democratic Union of Gambian Activists (DUGA), the Campaign for Democratic Change in the Gambia (CDCG), Save The Gambia Democracy Group (STGDP), Gambia Democraic Action Group (GDAG), Gambia Human Rights Network (GHRN), SeneGambian Human Rights Defense League (SenGamHRDL), Gambia Consultative Consul, (GCC), and the Gambia Movement for Democracy and Development (GMDD).

[40] Human Rights Watch interview with former member of Gambian security services, March 11, 2008

Enforced disappearances are defined under international law as "the arrest, detention or abduction of an individual by state authorities or their agents followed by a refusal to acknowledge the deprivation of liberty or by concealing the fate or whereabouts of the person, which places the person outside the protection of the law." Among the rights an enforced disappearance violates are the right to liberty and security of the person, including protection from torture and other ill-treatment; and, the right to a prompt, fair, and public trial.[41]

In his March 2015 report, the UN's Special Rapporteur on torture concluded that in the Gambia, "the purpose of unacknowledged detention is to facilitate torture or summary execution or both."[42]

Gambian journalist, Ebrima Manneh, disappeared in July 2006. Photo courtesy of Amnesty International

In the past decade, Gambian security forces have been implicated in several enforced disappearances, including of a journalist, two American-Gambian citizens, and a former army chief. On July 11, 2006, alleged NIA officers arrested Ebrima Manneh, a reporter for the *Daily Observer,* at the paper's offices just outside of Banjul. His whereabouts are still unknown and the Gambian government has repeatedly denied ever having him in custody.[43]

In 2008, the ECOWAS Community Court of Justice ordered the Gambian government to produce Manneh and to pay compensation of $100,000. Gambia has yet to implement the court ruling. A former member of the military, who worked for the Jungulers for five years and was witness to extrajudicial executions, believes he may have seen Ebrima Manneh shortly before he was killed:

> The night the [Jungulers] brought Haruna Jammeh and many others, the border patrol came with a guy and one of the Jungulers said he was Ebrima

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[41] See International Convention for the Protection of All Persons from Enforced Disappearance, adopted September 23, 2005, E/CN.4/2005/WG.22/WP.1/Rev.4 (2005), article 2.

[42] UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions.

[43] "Gambia: GPU Statement on Chief Ebrima Manneh," *All Africa*, August 1, 2014, http://allafrica.com/stories/201408011285.html (accessed July 1, 2015).

> Manneh. I don't know if it was him because I didn't know him personally. The army doesn't mingle with journalists. He was in jeans and a t-shirt. He looked like he'd been tortured. They took him away. And that evening one Junguler told me, "We used machetes and hammer and nailed into his head to kill that man." All of them are drunk when they do those things.[44]

On July 9, 2015, family members reported that brothers Muhammed Fadel Hydara and Hatabu Hydara were picked up from their homes in Serekunda by people they believed to be members of the NIA. They have not been seen since but are believed by family members to be held at the NIA.[45]

In June 2013, two US citizens of Gambian nationality, Alhagie Mamut Ceesay and Ebou Jobe, went missing in Gambia. Some 20 years earlier, they had left Gambia for the United States to study at the University of Washington in Seattle. They later settled with families in the US and became US citizens. Family members said they returned to Gambia hoping to invest in a cashew export business. They were last seen in the resort town of Kololi, 20 kilometers west of the capital. Family members have written numerous letters to President Jammeh asking for information about the whereabouts of the two men. Juka Ceesay, sister of Alhagie Ceesay, told Human Rights Watch they have yet to receive any information from the Gambian government.

Gambian authorities have been unwilling to share any information regarding the whereabouts of the two men and have rejected multiple offers from the US government to provide assistance in investigating the men's disappearance. Juka Ceesay said: "It's very difficult for a family when this happens – you feel lost. We want the US government to continue to put more pressure on the Gambia government to push them to release these men."[46]

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[44] Human Rights Watch interview with former Junguler, May 21, 2015.

[45] "The Detention of The Hydara Brothers Has locked Past The 72 Hour Constitutional Mandate Without Any Charges Brought Against Them," *Fatu Radio*, July 15, 2015, http://www.faturadio.com/index.php/en/component/k2/item/710-the-detention-of-the-hydara-brothers-has-clocked-past-the-72-hour-constitutional-mandate-without-any-charges-brought-against-them (accessed July 2, 2015); Mamour M Mbenga, "Two Hydara Brothers Picked up by Security Agents," Foroyaa Newspaper, July 13, 2015, http://www.foroyaa.gm/archives/6128 (accessed July 11, 2015).

[46] Human Rights Watch interview with Juka Ceesay, Alhagie Ceesay's sister, June 26, 2015.

Col. Ndure Cham, former chief of staff of the armed forces, who was implicated in leading the 2006 attempted coup, went missing after having fled towards the border with Senegal in August 2013.

Local media also reported the April 2013 disappearance of two Gambians, Saul Ndow, and former Member of Parliament, Mahawa Cham, allegedly abducted while in Senegal's southern Casamance region.[47]

Many people are held incommunicado for months before being released or before their whereabouts in detention become known. For example, as part of a crackdown after the 2014 coup attempt, the NIA and the military picked up dozens of family members, friends and acquaintances of alleged coup plotters, including elderly parents and a 16-year-old child, and held them without any contact with the outside world for several months.[48]

Several family members tried to find their relatives, first by visiting police stations and then attempting to get information from the NIA.[49] The authorities provided no information as to the whereabouts of their relatives. At least one family member was threatened with arrest if he continued to make inquiries about his missing relatives.[50]

In May 2015, the UN Working Group on Enforced or Involuntary Disappearances transmitted seven cases under its urgent action procedure to the Gambian government in respect to five people reportedly abducted on January 1, 2015, one man reportedly abducted on January 4, 2015, and one man reportedly abducted on January 9 or 10, 2015, by men believed to be members of the NIA.

On July 23, 2015, a dozen family members of the alleged coup plotters were released as part of a presidential pardon announced on the July 22nd anniversary of the 1994 coup

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[47] Musa Saidykhan "Saul Ndow's Family Utters Pain," *Kairo News,* May 2, 2014 http://www.kaironews.com/editorial/saul-ndows-family-utters-pain-2/ (accessed July 1, 2015); Yankuba Jambang "Family of Kidnapped Gambian, Saul Ndow, Demands His Immediate Release," *Senegambia News*, November 17, 2013 http://www.senegambianews.com/1333/55075/a/family-of-kidnapped-gambian-saul-ndow-demands-his-immediate-release (accessed July 1, 2015).

[48] "Gambia: Dozens Held Incommunicado, 'Disappeared,'" Human Rights Watch news release, May 27, 2015, http://www.hrw.org/node/135277.

[49] Human Rights Watch interviews with family members of those detained in relation to December 2014 coup attempt in April, May and June, 2015.

[50] Human Rights Watch phone interviews with family member of those detained in relation to December 2014 coup attempt April 15, 2015.

that brought Jammeh to power. The president also pardoned at least 26 men who had been convicted of treason from 1994 to 2013, and several civil servants convicted of crimes including economic crimes, abuse of office, and sharing false information.[51]

A former member of the military implicated in the 2014 attempted coup told Human Rights Watch that the NIA picked up his mother and another family member in January 2015. While his relatives were eventually released in July 2015, he described his relatives' pain at not knowing the fate of their loved ones:

> They think about how many months have passed and they just cry. They don't know where they can go to see our mum because they don't have any information. They don't know whether she is alive or not.[52]

Death Penalty

Gambia imposes the death penalty in a manner that violates international law. The death penalty was abolished in Gambia in 1993; but, it was reinstated in 1995 after President Jammeh came to power, in response to a reported spike in violent crime and alleged cases of treason. A de facto moratorium on the death penalty – no one had been executed since 1985 – remained in effect until 2012. A constitutional requirement to review the death penalty 10 years after its enactment has been ignored. Two decades since the penalty's reinstatement, the National Assembly has yet to review it.[53]

Since 2012, prisoners sentenced to death have been executed in violation of their fundamental due process rights, including ensuring that their right to appeal had been exhausted.[54] On August 19, 2012, Jammeh vowed publicly to execute every prisoner on death row – at least 47 – by September of that year. In the middle of the night on August 23, security officials took a woman and eight men on death row, including two Senegalese citizens, from

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[51] "President Jammeh's Speech on the 21st Anniversary of July 22nd Revolution," *Foroyaa Newspaper*, July 24, 2015 http://www.foroyaa.gm/archives/6267 (accessed July 26, 2015).

[52] Human Rights Watch phone interviews with family member of those detained in relation to December 2014 coup attempt May 17, 2015.

[53] UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions.

[54], International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx (accessed June 27, 2015), art. 6(2).

their cells in the security wing of Mile 2 prison and executed them. Those executed included three former military personnel who had been convicted of treason and murder.

The UN Special Rapporteur on extrajudicial executions said in his 2015 report that "the only difference between those who lived and those who died seems to be pure luck. The killings were, in other words, arbitrary and thus unlawful."[55] Their appeals had not been fully exhausted, and according to Amnesty International, neither they, nor their family or their lawyers, had been informed in advance of the execution date.

Amadou Scattred Janneh, a former minister of information, was a prisoner in Mile 2's security wing at the time of the executions.[56] He told Human Rights Watch:

> Armed men carrying handcuffs and leg irons came into the security wing. I saw them take Dauda, Malam Sonko, Abubakar Yabo. As they led Lamine Dabo away, he shouted to me, "Amadou! We are being executed!" We learned about another one, Tabara Samba, in the morning when a prison officer came to me crying and told me she [Samba] had also been executed. The prison officials were emotional about the incident. They dealt with us on an everyday basis and this had not happened for 25 years.[57]

After a widespread international outcry, Jammeh announced a conditional moratorium on executions[58] to be reinstated if violent crime in the country increased. However, in March 2015, Gambia rejected recommendations from 13 countries during its Universal Periodic Review at the UN Human Rights Council to abolish the death penalty.[59]

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[55] UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions; Human Rights Watch interview with Amadou Scattred Janneh, who was a prisoner held in the Security Wing at Mile 2 prison from January to August 2012 and who witnessed several men taken from their cells to be executed in August 2012, December 19, 2015.

[56] Amadou Scattred Janneh had been convicted on charges of treason and sedition in January 2010 for distributing t-shirts printed with "End [to] Dictatorship Now."

[57] Human Rights Watch interview with Amadou Scattred Janneh, December 19, 2015.

[58] "The Gambia: Conditional Moratorium on Executions is Not Enough," Amnesty International press release, September 17, 2012, https://www.amnesty.org/en/articles/news/2012/09/gambia-death-penalty-moratorium-must-lead-abolition/ (accessed July 1, 2015).

[59] UN Human Rights Council, Report of the working group on the Universal Periodic Review – Gambia: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/28/6/Add.1, March 24, 2015.

In March 2015, a secret military court sentenced three soldiers to death (and three other soldiers to life in prison) on charges of treason, desertion, conspiracy, and mutiny, relating to their involvement in the December 2014 failed coup. The court martial, closed to the public, appeared to lack basic due process.[60]

Currently, Gambia's constitution allows for the death penalty only in cases of serious and violent offenses resulting in the death of another; the Criminal Code, however, allows for the death penalty in cases of treason, and requires it in cases of murder.

Human Rights Watch opposes the death penalty in all circumstances because of its inherent cruelty and irreversibility.

Arbitrary Arrests

Arbitrary arrest and detention by Gambia's security forces is commonplace. Security forces, particularly the NIA and the Serious Crimes Unit within the police, often detain people without suspicion or evidence of a crime and hold them beyond legal limits. Some of those arbitrarily detained are held incommunicado for weeks, if not months or years, and later either subjected to enforced disappearance or summary execution in detention.

State security often target journalists, human rights defenders, student leaders, religious leaders, political opposition members, civil servants, lesbian, gay, bisexual and transgender (LGBT) people, and their own security force personnel with arbitrary arrest and detention.

The Gambian Constitution guarantees that "[n]o one will be subjected to arbitrary, [sic] arrest or detention." It also holds that "[a]ny person who is arrested or detained shall be informed… within three hours… of the reasons for his or her arrest or detention," and "[a]ny person who is arrested or detained shall be brought… before a court… within seventy-two hours."[61] In cases where an individual is arrested or detained in a manner inconsistent with those standards, "then without prejudice to any further proceedings…he or she shall be released either unconditionally or upon reasonable conditions." And, "any

[60] Human Rights Watch correspondence with member of Gambian security forces, July 28, 2015.

[61] Constitution of the Republic of The Gambia, 1997, Reprinted 2002, Sections 19(1), 19(2) and 19(3) (b) on Protection of Right to Personal Liberty, http://www1.umn.edu/humanrts/research/gambia-constitution.pdf.

person who is unlawfully arrested or detained by any other person shall be entitled to compensation."[62]

Contrary to these constitutional protections, Human Rights Watch documented dozens of cases of arbitrary arrest and detention without charge in the past several years, often accompanied by other abuses such as torture while in custody and poor detention conditions. The 72-hour limit is not in line with the 48-hour limit prescribed by international standards and is, at any rate, regularly abused by the authorities.[63]

Since the beginning of 2015, local media have reported numerous cases of Gambian authorities, usually the NIA, arresting people without suspicion or charge, and holding them beyond 72 hours. Some of them have been forcefully disappeared.

Human Rights Watch documented, and local media reported, dozens of cases of arbitrary arrest and detention in 2015:

- Alagie Abdoulie Ceesay, manager of Taranga FM radio station, in greater Banjul, which was closed down three times in the past five years by authorities, was picked up by NIA agents on July 2, 2015, and released July 13. He had not been charged and, according to a witness interviewed by Human Rights Watch, had been severely tortured. Ceesay was seen forced into a car in Banjul four days later.[64] At time of writing, he is on trial for sedition and has been refused bail.[65]
- On July 10, civil servant Mama Harr Ceesay was arrested at her office in Banjul and released July 21, without charge.[66]
- Five Ministry of Agriculture civil servants – Fafanding Fatajo, Burang Danjo, Ada Gaye, Bakary Kujabi and Omar Jammeh – were arrested by police after being asked

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[62] Ibid., Sections 19(5) and 19(6).

[63] See UN Human Rights Committee, General Comment No.35, Article 9, Liberty and Security of Person, U.N. Doc. CCPR/C/GC/35 (December 16, 2014), para. 33 ("In the view of the Committee, 48 hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing; 97 any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances.").

[64] "Gambian Journalists Abducted Again, Days after He was Freed," Committee to Protect Journalists (CPJ) press release, July 21, 2015, https://cpj.org/2015/07/gambian-journalist-taken-again-days-after-he-was-f.php (accessed July 23, 2015).

[65] Human Rights Watch correspondence with Gambian journalist, July 21, 2015.

[66] Mustapha Jallow, "GRA Staff Arrested, Detained at NIA," *Foroyaa Newspaper*, July 14, 2015, http://www.foroyaa.gm/archives/6159 (accessed July 8, 2015); Human Rights Watch correspondence with Juka Ceesay, (cousin of Mama Harr Ceesay) July 28, 2015.

to report to the Serious Crimes Unit on July 1, 2015. Despite Banjul's magistrate court granting them bail, they remain jailed at police headquarters in Banjul. The five were first arrested and charged with economic crimes and abuse of office in October 2014, and detained at the NIA until January 2015.[67]

- On June 22, 2015, a Ghanaian fishing boat captain, Ebenezer Noumo Justice, was arrested and detained at police headquarters for three days before being transferred to Mile 2 prison. Justice was released on bail in August and is now reporting to the police weekly. It is not known if he has been charged with a crime.[68]
- On June 1, Lamin Cham, a music promoter and radio show host, was arrested from his home, detained at NIA headquarters, and released without charge 20 days later.[69]
- Sanna Fadera, a soldier and university student, was picked up by the NIA on May 27, 2015, and released 29 days later, before he fled the country.[70]
- On March 2, 2015, Haruna Gassama, president of a rice farmers' cooperative, was arrested in the Lower Fulladou district and has been in NIA detention without charge ever since.[71]
- On January 5, 2015, two men, Oustas Ousman Gaye and Aji Kora Ceesay, were arrested in Mamudfana village. Family reported they did not know where the men had been taken.[72]
- Former Finance Minister Mambury Njie was picked up from his Brusubi home on October 9, 2014 by the NIA, and transferred to Serekunda General Hospital in

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[67] Mustapha Jallow, "Wife of Former Agric Official Laments Ordeal of Husband," *Foroyaa Newspaper*, July 10, 2015, http://www.foroyaa.gm/archives/6102 (accessed July 8, 2015).

[68] Muhammed Sailu Bah, "Fishing Trawler Captain still Detained at Mile 2," *Foroyaa Newspaper*, July 6, 2015, http://www.foroyaa.gm/archives/5989 (accessed July 9, 2015).

[69] "Lamin Cham's Family: We Saw Him at the NIA Office," *Diasporium News*, June 12, 2015, http://www.diasporium.com/index.php/on-air-3/item/685-lamin-cham-s-family-we-saw-him-at-the-nia-office (accessed July 9, 2015); Mustapha Jallow, "DJ Lamin Cham Released," Foroyaa Newspaper, July 6, 2015, http://www.foroyaa.gm/archives/5991 (accessed July 9, 2015).

[70] Kebba Jeffang, "GAF Member Sanna Fadera detained beyond 72 Hrs," Foroyaa Newspaper, June 4, 2015, http://www.foroyaa.gm/archives/5991 (accessed July 9, 2015); Human Rights Watch correspondence with Fatou Camara, July 2015.

[71] "Haruna Gassama, CRR Rice Farmers' Cooperative President in Detention for 106 Days - Will Vision 2016 Include an End to Detention without Trial for Farmers?" *Foroyaa Newspaper*, June 15, 2015, http://www.foroyaa.gm/archives/5682 (accessed July 9, 2015).

[72] Abdoulie G. Dibba, "Oustas Ousman gaye and Aji Kora Ceesay missing for 28 days," *Foroyaa Newspaper*, February 2, 2015 http://www.foroyaa.gm/archives/3586 (accessed July 1, 2015).

Banjul on November 28, 2014. In July 2014, Njie had been earlier acquitted of economic crimes and neglect of duty. He was released on July 27, 2015.[73]

Human Rights Watch is not aware of anyone unlawfully arrested or detained by security forces who has received compensation from the government, as stipulated by the constitution.[74]

Many victims of arbitrary arrest and detention end up fleeing the country. The New York based International Refugee Rights Initiative, said that at least 150 Gambians, all of whom had fled to Senegal since January 2015, had asked their Senegal office for assistance in processing asylum requests.[75]

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[73] Mustapha Jallow, "Mambury Njie Still Hospitalized, Under Guard by NIA," *Foroyaa Newspaper*, February 27, 2015, http://www.foroyaa.gm/archives/3970 (accessed July 10, 2015); Mustapha Jallow, "Mambury Njie in Detention for 7 Months Now," *Foroyaa Newspaper*, June 30, 2015, http://www.foroyaa.gm/archives/5906 (accessed July 10, 2015).

[74] Constitution of the Republic of The Gambia, 1997, Reprinted 2002, section 19(6) on Protection of Right to Personal Liberty, http://www1.umn.edu/humanrts/research/gambia-constitution.pdf.

[75] "Gambian Rapper Seeks Asylum in Senegal after Death Threats," *Reuters Africa*, July 23, 2015, http://af.reuters.com/article/senegalNews/idAFL5N1034FP20150723 (accessed July 20, 2015); Human Rights Watch interview with Djibril Balde, IRRI coordinator, August 27, 2015.

IV. Torture and Ill-Treatment

> Three nights of consecutive torture: They came for Madi Ceesay [the general manager of the *Independent*] and me in the middle of the night [in March 2006] and took us somewhere. Then they took Madi and told me that they had killed him. Eight of them wearing masks, they covered my head with a black nylon bag and beat me. They were trying to find names. After the torture, one NIA officer was so upset. He said this is not the way the NIA works, to have people [Jungulers] come in and do such torture. But the NIA director said there was nothing he could do because it was direct from the president.
> – Musa Saidyhhan, exiled journalist detained, December 2014

> They [Jungulers] put a polythene bag tied tightly over the head, pour water and then people beat you. You are tied with feet together and arms together behind your back. They are pouring water over you. You don't die but you suffer.
> – Torture victim held at unofficial detention center, January 2015

Human Rights Watch interviewed 17 people who alleged torture and other cruel, inhuman or degrading treatment by members of the state security forces and paramilitary groups, and 12 people who had witnessed others being subjected to such treatment. The victims included journalists, opposition members, members of the security or intelligence services, civil servants, and others who spoke out on government human rights violations.

These victims most frequently identified the perpetrators of torture as members of paramilitary groups, particularly the Jungulers and, to a lesser extent, the NIA and the NDEA. Former senior security force officials and civil servants with direct knowledge of security force operations also told Human Rights Watch about torture in custody.

The types of torture used included: severe beating with wooden clubs, metal pipes, guns, cables, electric wires, hammers, fan belts and a traditional whip made of dried animal skin (*leymarr* in Wolof, a native language); near-suffocation by tying a plastic bag over the head; pouring water over the victim; trampling with boots; electroshock of genitals and other body parts; rape and other sexual violence; tying up with ropes; fake burial; and melting

plastic bags to drip on the skin. Torture victims said they were routinely refused medical care and often denied contact with relatives until visible wounds had healed.

Beyond physical torture and ill-treatment, many victims described having been subjected to psychological abuse such as prolonged periods in solitary confinement, mock execution, denial of contact with the outside world, and threats of mistreatment, torture and death. Conditions in detention were generally very poor, including inadequate and poor quality food, poor or no toilet facilities, and small cells with no access to light. Some victims reported being held for weeks without being allowed to wash and without a mat to sleep on or a blanket to cover themselves.

The cases documented by Human Rights Watch occurred as early as 1994 to as recently as January 2015. Almost all torture victims interviewed were being held at NIA headquarters when the torture occurred. Many described being pulled out of their cells at night and taken to another room where several men dressed in black, and who they believed had come in from outside the NIA, abused them. Most victims believed these men belonged to the Jungulers. In some cases, victims said NIA officials were present when they were abused. Others said that NIA officials either were complicit or appeared powerless to intervene because, they believed, the Jungulers had been sent by the president.

The March 2015 report by the UN Special Rapporteur on torture concluded that torture in Gambia is widespread:

The practice of torture is prevalent and routine, in particular by the NIA during the initial stages of detention. The Government has not fulfilled its obligation to investigate, prosecute and punish every incident of torture and ill-treatment or its obligation to prevent such occurrences… In cases where there is a real or perceived threat to national security there is a corresponding increase by the NIA of acts of torture and ill-treatment during the detention and arrest process.[76]

A man who had spent time at the security wing of Mile 2 prison told Human Rights Watch that six soldiers, tried for their involvement in the December 2014 coup attempt, arrived at

[76] UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Mission to the Gambia, A/HRC/68/Add.4, March 2, 2015.

the security wing in March 2015 with visible signs of physical abuse.[77] He described seeing marks all over their bodies that looked like they had been beaten badly with some kind of hard object. One of the men, Modou Njie, was also treated for a broken hand:

> When they came in [to Mile 2 prison], they came in iron leg and handcuffs, walking slowly. I saw marks on their backsides, and a lot of marks on their chests and backs. It had healed a bit but all of them had scars. In that place [NIA headquarters] they are beating them. I spoke with the men. They said they were there for many days, and that they had really suffered. After arriving they slept on the floor for one week; inmates helped them with medical care. They were worried to talk about the experience. They looked scared.[78]

Two former NIA officials told Human Rights Watch[79] that torture occurred regularly at the NIA headquarters, and that it was largely carried out by the Jungulers. One of them. who witnessed the torture of two men allegedly involved in the 2006 coup attempt, said:

The amount of wailing coming out of the NIA at that time, it made me cry. My NIA colleague told me to come downstairs to help investigate. I came down and saw second lieutenants Musa Savage, Ebou Lowe, and Alieu Sesay. They were tied, hands behind their backs, sitting on the floor. I could see they had suffered a lot.[80]

Victims told Human Rights Watch they believed the authorities used torture to terrify, control, and silence opposition voices; to punish them for confronting the president; or, to elicit confessions for seditious and treasonous crimes or crimes for which there is no physical evidence. They said security forces regularly use violent abuse or the threat of violent abuse to force confessions and often "arrest to investigate rather than investigate to arrest."[81] For example, in 2006, alleged coup plotters Capt. Yahya Darboe, Capt. Bunja

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[77] Human Rights Watch interviews with a source who has spent time at the Mile 2 prison, April 25, 2015; the six detained soldiers are Abdoulie Jobe, Sarjo Jarju, Modou Njie, Bouba K. Bojang, Boubacar Sanneh, Amadou Sow.

[78] Human Rights Watch interviews with a source who has spent time at the Mile 2 prison, April 25, 2015.

[79] Human Rights Watch Interviews with former members of Gambian security services, January 28 and April 17, 2015.

[80] Human Rights Watch Interview with a former member of Gambian security services, January 28, 2015.

[81] UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Juan E. Méndez, Mission to the Gambia, A/HRC/68/Add.4, March 2, 2015.

Darboe, and 2nd Lt. Pharing Sanyang accused state officials of torturing them and forcing them to confess to charges of treason. The government did not respond.[82]

In 2013, three opposition members and a commissioner of oaths (notary public) were allegedly tortured and their "confessions" were televised on state TV (see below). These are just a few examples of what former members of the judiciary and the security forces say is a widespread tactic of security forces, particularly the NIA, to fabricate evidence.

Furthermore, human rights activists believed torture was used by state security agents to instill a generalized sense of fear and terror within the broader population. The Gambian government's failure to adequately respond to these allegations fosters the impression that it is accepting of, if not complicit in, regular human rights violations and obstruction of due process.

Since the criminal code was amended in October 2014, to include much harsher sentences for various acts defined as "aggravated homosexuality," LGBT Gambians are also increasingly subjected to arrest, detention, torture, and other ill-treatment by state security forces (see section below).

A former Junguler described to Human Rights Watch the types of torture and abuses he had seen used by the group:

> They use nylon bags to cover the face, and they pour water over you. They tie your hands behind the chair and tie your legs tightly. They use electricity and take an electric cable to your private parts. They even use a hammer to beat your head, a hammer and nail. Sometimes they burn plastic bags and drop the burning plastic on the bodies.[83]

Several victims described being beaten severely with metal sticks and gun butts, trampled on, and whipped with a traditional whip (*leymari*) that hooks into the flesh and rips it off. A former intelligence officer described what he endured:

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[82] "Country Reports on Human Rights Practices: The Gambia," Bureau of Democracy, Human Rights, and Labor, March 6, 2007, http://www.state.gov/j/drl/rls/hrrpt/2006/78736.htm (accessed June 8, 2015).

[83] Human Rights Watch interview with a former Junguler May 21, 2015.

> They took me to a deserted house. My hands were tied behind me and they tied my legs. They beat my back with iron bars and they used a *leymarr* – when they beat you with this, wherever it touches, it pulls some flesh. It took something like five hours. When they brought me back to NIA, I was fit for nothing. I was near to losing consciousness, sometimes I couldn't see. I told them I can't see. They said, "You will die here if you don't tell us the truth." They were looking for names and information about the coup d'etat.[84]

Several victims told Human Rights Watch they were severely beaten on their backs, something they believed was an attempt to ensure that their scars remain hidden. Fatou Camara, former press secretary and NIA detainee said:

> They only beat you on the back, so that they can present you in public face forward, or put you on TV without it being obvious you have been tortured. Like what happened with Amadou Sanneh and the others. When they were forced to confess on national TV, you could not see any marks. But I saw their backs, they were terribly wounded, with cuts all over and a lot of big open wounds. When they put clothes over their back red blood stains seeped through. The backs of their legs and hands were also covered in scars. One said to me, "Fatou, can you ask them for a doctor, please?" No doctor came.[85]

Many detainees described the psychological torture of being held for prolonged periods in dark, solitary cells with no human contact. Amadou Scattred Janneh, former minister of information, was detained incommunicado for a week at a secret detention center in June 2011, after printing 100 t-shirts emblazoned with the slogan "End to Dictatorship Now." He said:

> For that week, they tried to isolate me completely. It is a form of psychological pressure. Guards came to give me bread and water, but I had no access to a lawyer, no way to contact anyone. I said, "What about the 72-hour detention without charge limit?" and they told me, "We can keep you for 72 days if we want."

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[84] Human Rights Watch interview with former member of the NIA, January 28, 2015

[85] Human Rights Watch interview with Fatou Camara, June 13, 2015

A former intelligence officer who was held for a month in 2012 in an unofficial detention center described his solitary confinement:

> When you are alone incommunicado, it is mental torture. To be locked here, with no movement, you can go mad. You hear people talking, you don't see anyone. The only people you see are the guards. They just bring you dirty foods. But you are suspicious even of the food, maybe they have put something in there, and you will die.[86]

Two credible sources told Human Rights Watch that prisoners held at the maximum security wing of Mile 2 prison are sometimes removed and taken to other locations where they are tortured. One security force member described having seen security wing prisoners removed from their cells at night by men he knew to be part of the Jungulers and returned several hours later with visible signs of torture, including open wounds, marks and bruising, and sometimes broken bones.[87]

After passage of the LGBT law in October 2014, the authorities arrested dozens of LGBT people, some of whom were abused in detention. One witness described seeing three men detained at the NIA headquarters in November on charges of homosexuality as having been "severely beaten." [88] The witness said state security agents were trying to force the men to confess to engaging in homosexual activity. Another witness said the men suffered regular abuse during their nine-month detention at the NIA.

Another credible source with first-hand information about the case told Human Rights Watch that signed confessions were obtained through torture.

A journalist described how he suffered three consecutive nights of torture at the hands of the Jungulers while detained incommunicado at NIA headquarters for over a month in February 2013:

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[86] Human Rights Watch interview with former member of the NIA, January 28, 2015

[87] Human Rights Watch interview with a member of Gambian security forces, April 25, 2015

[88] Human Rights Watch interview with a witness to abuses suffered by men detained at NIA on suspicion of homosexuality, April 22, 2015

> I was kept in a cell alone. The Jungulers took me out at night, to a torture room. There are electrical wires, pipes, heavy sticks there. The Jungulers were drunk, and they beat me severely. They came back Saturday and Sunday to do the same. I was not myself at that time. My face was swollen. I had internal injuries and bruising all over my body.

Scars resulting from torture suffered by journalist Musa Saidykhan during his 22-day detention at National Intelligence Agency headquarters in 2006. © 2006 Musa Saidykhan

Musa Saidykhan, former editor of the *Independent* newspaper, was tortured for three consecutive nights while detained incommunicado at the NIA for 22 days in March 2006. Days before his arrest, Saidykhan had written an article about the dozens of people arrested and held incommunicado in connection with the March 2006 coup attempt.

He described his mistreatment:

> Someone stomped on my hand with big boots, and broke it.... They shocked me on my genitals, hit me with a gun, covered my head with a black nylon bag. All of this didn't happen at the same time, it was very hectic. They were trying to find names in connection with the article I wrote.[89]

[89] Human Rights Watch interview with Musa Saidykhan, December 22, 2014

> They told me that… my problem was my mouth and my hand. So they decided to break my hand into pieces. They hit me with an iron until I heard my bones crack and then they also came with a bayonet and sliced [the side of my mouth]… The sense was to leave those marks on me so that wherever I am I can always remember them.[90]

Journalist Musa Saidykhan with a makeshift cast on his broken arm, shortly after his release in 2006 from National Intelligence Agency headquarters, where he was tortured severely. © 2006 Musa Saidykhan

Former Jungulers told Human Rights Watch that torture also occurred at secret detention centers outside official NIA premises, police stations, and the prison system. Some victims said they did not know where they were taken and others described being taken to abandoned buildings near the airport.[91]

In 2012, after multiple arrests and continual threats from police, one student leader described being detained at the NIA with another student leader, then transferred in a vehicle with their faces covered to a place a few minutes from the NIA headquarters. They were held for four days in an underground cell without light known as *bamba dinka*, or crocodile pit in Mandingo. He said:

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[90] Human Rights Watch interview with Musa Saidykhan, July 27, 2015

[91] Human Rights watch interview with Amadou Scattred Janneh December 19, 2014 and with Omar Jallow June 1, 2015

> We spent four days in *bamba dinka*; it was underground, there was no light. The Jungulers and NIA were managing it, and they didn't say why they arrested us. They took me out and tied my hands and my legs behind a chair. Then they beat me severely. They insulted me while beating me: "You are nothing! People in the West are using you and you think that is what is best for the country!" After that, they tied me down on a metal bed. Then they plugged it into the wall and I felt my body jump. They would plug it in for a few seconds, then turn it off. They were trying to get me to admit to sending information out of the country about the president forming a vigilante group in the Central River Region. This went on for about 30 minutes maybe.[92]

Opposition leaders, senior civil servants, and human rights defenders have also been subjected to torture, often carried out by Jungulers. Members of these groups have been witnessed by others[93] in detention with injuries and wounds suggesting torture. Several witnesses told Human Rights Watch that they saw these victims taken from their cells and returned hours later or the following morning with serious injuries, including open wounds.

On September 25, 2013, the treasurer of the opposition United Democratic Party (UDP), Amadou Sanneh, and two other UDP party members, Malang Fatty, his brother Alhagie Sambou Fatty, and Bakary Baldeh, a commissioner of oaths, were detained incommunicado for one month at the NIA, before being found guilty on sedition charges for involvement in a letter written on UDP letterhead supporting the political asylum application of Malang Fatty.[94]

Fatou Camara, the former press secretary, who was detained at the NIA for 25 days from September 15, 2013, described how the four men were tortured to force them to confess to sedition:

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[92] Human Rights Watch Interviews with two student leaders, April and June, 2015

[93] Human Rights Watch interviews with Fatou Camara, June 13, 2015, with a Gambian journalist, June 17, 2015 and with former members of the NIA, January 28 and May 17, 2015.

[94] Amnesty International, "The Gambia must Immediately Release Three Opposition Members Convicted of Sedition," December 18, 2012, www.amnesty.org/en/latest/news/2013/12/gambia-must-immediately-release-three-opposition-members-convicted-sedition/ (accessed July 9, 2015).

> At 7 p.m. that evening I saw the NIA guards take Amadou to a solitary confinement cell. At 10:30 p.m., I saw the guys come in who torture people. I know them very well. As a former press secretary, I worked at state house and many of them are in the presidential guard. I heard them screaming that night and the following morning. I saw three men carry Amadou; they had put new clothes on him so you couldn't see any blood, he was barely conscious. For 10 days afterwards they [Sanneh, Fatty, Fatty, Baldeh] were in such bad shape none of them could talk. They had been beaten on the back, from neck to feet, so they can be presented face-wards without any signs of torture. The people who did it are called the Jungulers or the Black Boys. They are members of the military, but there are also some NIA officials among them.

Shortly afterwards, the Gambian state TV broadcasted the four men saying that they provided false information in the letter. Amadou Sanneh can be seen visibly in pain and barely able to speak.[95]

Amadou Sanneh, treasurer of the opposition United Democratic Party (UDP) and three other men were detained at National Intelligence Agency headquarters in Banjul for one month in September 2013. Here, in October 2013, Sanneh is seen on state TV apparently in pain and "confessing" to sedition charges.

[95] "GRTS 02 10 2013 2330 GMT - Amadou Sanneh," October 2, 2012, video clip, YouTube, https://www.youtube.com/watch?v=VxI4vLZu9Qc (accessed July 1, 2015); "GRTS 03 10 2013 2250 GMT – Bakary Badjie," October 3, 2013, video clip, YouTube, https://www.youtube.com/watch?v=3-CjDaaNuIU (accessed July 1, 2015); "GRTS 03 10 2013 2240 GMT – Samba Fatty," October 3, 2013, video clip, YouTube, https://www.youtube.com/watch?v=wy8lSjj4W6A (accessed July 1, 2015); "GRTS 03 10 2013 2230 GMT – Malang Fatty," October 3, 2013, video clip, YouTube, https://www.youtube.com/watch?v=noMmaaEH5zM (accessed July 1, 2015).

On December 3, 2012, Imam Baba Leigh, a human rights activist and religious leader, was arrested by the NIA after he criticized the government's use of the death penalty in one of his sermons. During his five-month incommunicado detention, he was severely tortured. Over 10 days he was beaten severely with cables and whips; stripped naked and dragged along the floor to reopen the wounds from his beatings; and tied and thrown into a hole as if to bury him alive.[96]

> They took everything from me and put me in jail. Nobody talked to me. ... At one o'clock at night, Yahya's Jungulers – they call them Black Blacks because they mask their faces – eleven of them came... I was taken to another room and they started beating me, hitting me, kicking until all my body was bleeding. From one o'clock until four o'clock. They asked me why am I so close to the American Embassy, why am I going against the president, why I hate the president, why I always condemn him. They said, if the president decides to kill these people, who am I to go against it? If he [Jammeh] wants, he can order my execution. I should just keep quiet.[97]

Human rights activist Imam Baba Leigh was abducted, held incommunicado and tortured at the National Intelligence Agency headquarters, Banjul, in December 2012. He fled Gambia when he was released in May 2013. © 2015 Human Rights Watch

[96] Amnesty International, "20 Years of Fear in the Gambia: Time for Justice," July 22, 2014.

[97] Human Rights Watch interview with Imam Baba Leigh, Maryland, July 7, 2015.

Throughout his detention, Leigh had no contact with the outside world and the government denied having him in custody. He was never charged with a crime or brought before a court. He was finally released in May 2013.

Over one month in February and March 2009, the authorities rounded up nearly 1,000 people from several villages in Foni Kansala and tried them in so-called "witch trials" that included arbitrary detention, torture, and rape of numerous villagers. International and local media reported that President Jammeh had invited Guinean religious leaders, so-called marabouts, to purge the country of "witches," after the death of the president's aunt, allegedly from sorcery.[98] The Guineans were transported in government vehicles and accompanied by Gambian military and security services.[99]

A former Junguler, who participated in the detention and abuse of villagers during the witch trials told Human Rights Watch that security transported the alleged "witches" to an empty building in Kanilai, where many were tortured in an attempt to force confessions:

We went to two or three villages a day. The military and police surrounded the perimeter of the village so no one could escape. The whole village is closed inside. Then the Jungulers go with the marabouts to pick out witches. If you are an old man or lady or a young person, any category, you could be chosen. You are transferred to Kanilai and passed through an interview and videoed. Before the interview, you are beaten. After the interview, you are beaten so seriously that many people vomited blood. I remember the room where the torture was happening, the tiles were white but it was full of blood because of the bad tortures. Some died afterwards. It was really terrible.[100]

He told Human Rights Watch that numerous women were also raped during the witch trials by the marabouts.[101] He explained what he saw:

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[98] A "marabout" can be used to describe an Islamic school teacher or, more loosely, an Islamic religious leader. Here, it is more closely translated as "witch doctor."

[99] US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Report on Human Rights Practices 2009 – The Gambia," March 11, 2010.

[100] Human Rights Watch interview with former Junguler, June 16, 2015

[101] Human Rights Watch interview with former Junguler, June 16, 2015

> After you do your [witch-trial] interview, the marabout tells you [a detained woman] to come to the shower. The marabouts bathe the person so they won't be a witch anymore. In there it was only men. It was there that they [the marabouts and the soldiers] raped the ladies. I saw it myself.

Imam Karamo Bojang was one of thousands of Gambians abducted and tortured during state-sponsored witch trials, where victims were detained, beaten and forced to drink a reportedly hallucinogenic concoction as a "cure." © 2009 Jane Hahn

Detainees were also made to drink a concoction that made them hallucinate and gave them severe stomach pains; six people died from kidney failure.[102] Despite these numerous abuses, no one has ever been investigated let alone tried for these crimes.

Omar Jallow, leader of the opposition People's Progressive Party, was arrested in October 1996 with about 30 other Gambian civil servants and politicians after being accused of planning an illegal demonstration. He told Human Rights Watch:

> We were taken to Bakau army camp. They stripped us all naked, beat us up. After beating us, they kept us naked, laid us on the ground and then they walked all over us in their boots. There was a lot of blood. They beat me with a stick and hit my left eye, it was swollen and painful for month. I lost

[102] UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to the Gambia, A/HRC/29/37/Add.6, May 17, 2015.

> sight in that eye at that time… They kept us in a disused hangar for 14 months – in old Bakau military camp. We slept on the bare ground, not allowed to wash, in the same clothes, for weeks. We were there for 14 months without being charged, without being told anything, no family and no lawyers of course, no medical attention, nothing. [103]

International law prohibits all torture and other ill-treatment.[104] The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) specifically prohibits the use in court of evidence obtained through torture.[105]

Gambia's constitution states that "no person shall be subject to torture or inhuman degrading punishment or other treatment."[106] However, the specific offense of torture is not included in the Criminal Code.

A lawyer told Human Rights Watch that they have yet to see a court uphold their objections to confessions obtained through torture. Numerous sources, including former Jungulers and intelligence officers, former civil servants, and members of the opposition said they believed torture victims detained by state security are held incommunicado to ensure there are fewer witnesses to their torture.[107]

Not only has the government failed to convict any state security agents or members of paramilitary groups responsible for torture or other ill-treatment, it has not taken any other steps to end the practice.

In March 2015, Gambia rejected a recommendation from 13 states at the UN's Human Rights Council to ratify the Convention against Torture.

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[103] Human Rights Watch interview with Omar Jallow, Washington, DC, June 1, 2015.

[104] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on December 10, 1984 and entered into force on June 26, 1987, http://www.ohchr.org/Documents/ProfessionalInterest/cat.pdf (accessed June 30, 2015).

[105] Ibid., article 15.

[106] Constitution of the Republic of The Gambia, 1997, Reprinted 2002.

[107] Human Rights Watch interview with Gambian lawyer, April 25, 2015.

V. Persecution of LGBT People

> The first time I was arrested was in mid-September [2014]. I was in my house, then some policemen came in. They were talking to my girlfriend. They asked her if we can follow them but she told them, for what reason? They said, "You guys are lesbians."[108]
> – Gambian woman who identifies as a lesbian, arrested on suspicion of homosexuality, September 2014

Gambians who identify as lesbian, gay, bisexual or transgender, or who are perceived as such have increasingly become the target of hate speech from the president and the foreign affairs minister, as well as of new discriminatory laws, arrest and prosecution by the authorities, and sometimes violent abuse in custody.

President Jammeh has a long history of virulent anti-gay hate speech. In May 2008, he gave gay people a 24-hour ultimatum to leave the country, promising to "cut off the head" of any gay person found in the country.[109] At the launch of Operation Bulldozer in May 2012, a campaign to reduce violent crime in the country, Jammeh said: "Drug dealing, pedophiles, homosexuals, murderers, drug traffickers, human traffickers, 419[110].....we are not going to tolerate that in this country."

In a March 2013 speech at the opening of parliament,[111] Jammeh said that "homosexuality is anti-god, anti-human, and anti-civilization. Homosexuals are not welcome in the Gambia. ... If we catch you, you will regret why you are born."

Jammeh told the UN General Assembly in September 2013, that homosexuality is

[108] Human Rights Watch interview with a Gambian woman who identifies as a lesbian, April 30, 2015.

[109] "Gambia Gay Death Threat Condemned," *BBC News*, May 23, 2008, http://news.bbc.co.uk/2/hi/africa/7416536.stm (accessed July 2, 2015).

[110] "419" is a slang term derived from the section of Nigerian law dealing with con artistry and fraud that has since become widely used in West Africa and beyond to refer to fraud and scams.

[111] Pa Nderry M'Bai, "Gambian Leader Vows to Arrest and Deport EU Citizens who Handcuffed Gambian Deporters," *Freedom Newspaper*, March 29, 2013, http://www.freedomnewspaper.com/Homepage/tabid/36/newsid367/8550/Jammeh-Says-Gambias-Growing-Murder-Rate-Will-Lead-To-The-Moratorium-On-The-Execution-Of-Death-Row-Inmates-Being-Lifted-Without-Any-Further-Notice/Default.aspx (accessed June 29, 2015).

"very evil, anti-human" and that "[t]hose who promote homosexuality want to put an end to human existence."

In his December 2013 Christmas address, he referred to homosexuality as an "evil and strange social cancer," and in his February 2014 independence day speech, he said: "Homosexuality will never be tolerated and in fact will attract the ultimate penalty, since it is intended to bring humanity to an inglorious extinction. We will fight these vermin called homosexuals or gays the same way we are fighting malaria-causing mosquitoes, if not more aggressively." He also said that Gambia will not accept gay diplomats and will not accord them diplomatic immunity.

In a May 2014 speech in Basse town, Jammeh said, "Some people go to the west and claim they are gays and that their lives are at risk in The Gambia, in order for them to be granted a stay in Europe. If I catch them I will kill them."[112] And in a May 2015 speech at Farafeni town, he said he would "slit the throats" of any gay man in the country: "If you do it [in Gambia] I will slit your throat – if you are a man and want to marry another man in this country and we catch you, no one will ever set eyes on you again, and no white person can do anything about it."[113]

Lesbian and gay Gambians told Human Rights Watch that President Jammeh's homophobic diatribes are increasingly polarizing Gambian society, playing on and magnifying homophobia in the country. A lawyer told Human Rights Watch that Jammeh's public statements have a significant impact on a judiciary that is largely lacking in independence: "It is not direct interference in the case. It is very indirect. Because of statements made – by the president, by ministers – about gay people, judges are very cautious." [114]

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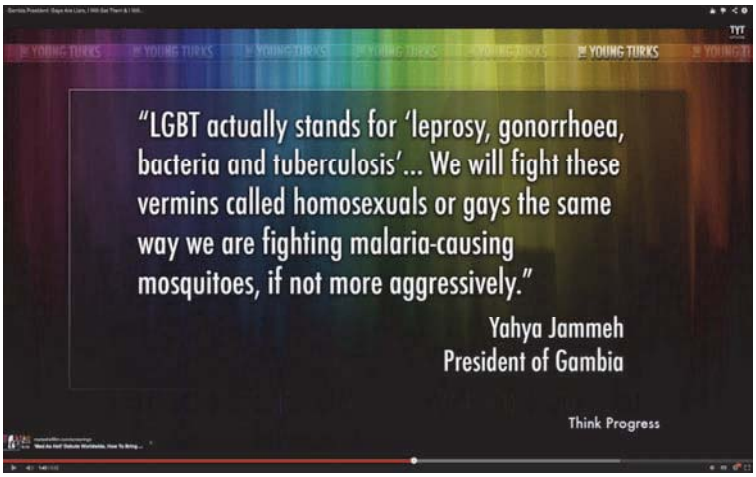
[112] Hayes Brown, "Gambian President Threatens Gay Asylum Seekers: 'If I Catch Them, I will Kill Them'," *Think Progress*, May 16, 2014, http://thinkprogress.org/world/2014/05/16/3438789/gambian-president-threatens-gay-asylum-seekers-if-i-catch-them-i-will-kill-them/ (accessed July 6, 2015).

[113] Kayla Ruble, "Gambian President says He will Slit Gay Men's Throats in Public Speech," *Vice News*, May 11, 2015, https://news.vice.com/article/gambian-president-says-he-will-slit-gay-mens-throats-in-public-speech (accessed July 6, 2015).

[114] Human Rights Watch interview with Gambian lawyer, April 25, 2015.

A screen shot from a Gambian online news show, showing a statement made by President Yahya Jammeh on state television in February 2014. © 2014 Robin Hammond/Panos



The president's relentless tirade of hate speech evidently spurs the state security forces to harass, arbitrarily arrest and detain, and commit violence against LGBT Gambians.

Unjust Laws

Government action against Gambia's LGBT community builds on a history of homophobic laws rooted in British colonial sodomy laws.[115] At independence, the country's new 1966 Criminal Code included a chapter on Offences Against Morality that contained a number of homophobic provisions. Section 144 criminalizes "carnal knowledge of any person against the order of nature" with a sentence of up to 14 years in prison. Section 145 outlaws the attempt to commit carnal knowledge against the order of nature, with a sentence of up to seven years in prison; and, section 147 outlaws "gross indecency" between a male person and another male person, or attempts to commit gross indecency punishable by up to five years in prison. The meaning of "against the order of nature" is not defined, but is listed together with "carnal knowledge of an animal."[116]

In 2005, the government amended sections 144 and 147 of the Criminal Code to outlaw private consensual same-sex relations by women specifically, including the attempt by a woman to commit an act of "gross indecency" with another woman. Section 147 defines an act of gross indecency as "any homosexual act," and section 144 goes further to describe "carnal knowledge of any person against the order of nature" as including "through the anus

[115] Human Rights Watch, *This Alien Legacy: The Origins of "Sodomy" Laws in British Colonialism*, December 17, 2008, http://www.hrw.org/en/reports/2008/12/17/alien-legacy-0.

[116] Gambian Criminal Code, Act No. 25 of 1933.

or mouth of the person; inserting any object or thing into the vulva or anus of the person for the purpose of stimulating sex; and committing any other homosexual act with the person."[117]

On October 9, 2014, the government again amended section 144. Gambia's 2014 Criminal Code (Amendment) Act introduced a series of new "aggravated homosexuality" offenses that impose sentences of up to life in prison. The aggravated homosexuality clause refers to anyone having "unlawful carnal connection with any person of the same sex," where the person is a serial offender or living with HIV, and where the "victim" has a disability. These clauses are especially concerning as they essentially criminalize and discriminate against LGBT people living with HIV or with a disability.

The law also conflates sex with minors and sex without consent. The aggravated homosexuality offense applies where the "victim" of the act is below 18. The legal age of heterosexual consent for a woman is 16 (there is no age of consent for men)[118] and sex with a girl under 16 is punishable by 14 years in prison. Consensual homosexual acts with a person under 18 is criminalized and punishable by life in prison. While Gambian law rightly protects children and non-consenting adults from sexual abuse, it should treat LGBT people equally with regard to consensual sexual relations between people who are over 16, the age of consent. The law presents a discriminatory double standard.

The amendment includes the offense of drugging another person in order to have "unlawful carnal connection" with a person of the same sex. While the provision correctly protects people from abuse, the wording of the clause is overly vague and could easily be manipulated to discriminate against LGBT people – or those perceived to be LGBT – who are engaging in consensual relations. Further, the punishment of life in prison for any of these new offenses is also a far harsher penalty than punishments for similar crimes and, as such, is discriminatory and violates the Gambian constitution's provisions to protect all Gambians from discrimination.[119]

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[117] Gambian Criminal Code (Amendment) Act, No. 3 of 2005, GMB-2005-L-75299, July 21, 2005, http://www.ilo.org/dyn/natlex/docs/SERIAL/75299/78264/F1686462058/GMB75299.pdf (accessed July 7, 2015).

[118] Criminal Code section 127 criminalizes unlawful carnal knowledge of any girl under 16-years-old, punishable by 14 years in prison. The Tourism Offences Act 2003 introduces more stringent laws on the sexual abuse of children by foreigners, punishable by 14 years in prison and defines a child as anyone under the age of 18.

[119] Constitution of the Second Republic of the Gambia, adopted on August 8, 1996, entered into force January 1997, amended in 2001, http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/48490/90454/F1377208294/GMB48490.pdf (accessed June 30, 2015).

The new text is taken literally verbatim from section three of Uganda's Anti-Homosexuality Act, which was overturned by Uganda's Constitutional Court in August 2014 on technical grounds.[120]

Arrests and Discrimination

The 2014 amendments had an immediate negative impact. Police and intelligence agents promptly rounded up dozens of men and women on suspicion of their sexual orientation. In early November 2014, at least five people – three men, one woman and a 17-year-old boy – were detained at NIA headquarters for several weeks, held incommunicado, and physically abused. At least two men were prosecuted for homosexual acts, and transferred to the maximum security wing at Mile 2 prison while on trial. One July 31, 2015, the men were acquitted due to lack of evidence and released from jail.

Since the arrests, scores of LGBT Gambians have scattered, hiding in rural villages or leaving the country. Human Rights Watch documented over 20 LGBT Gambians who had fled the county since October 2014, and has received reports of many more seeking safety in remote areas within the country.

Human Rights Watch interviewed 11 LGBT people, five women and six men between the ages of 18 and 29, who fled the 2014 wave of arrests in Gambia. They described regular arrests and harassment because of their sexual orientation or gender identity by the Gambian authorities over the past few years, even before the 2014 amendments. They said, since the new law passed in October, law enforcement harassment of gay men and lesbians turned into a "witch hunt." They described the panic in the community after many of them received calls from friends in state security agencies who warned them to leave the country to avoid arrest.

One lesbian woman told Human Rights Watch that in November 2014, shortly after the new law was passed, the authorities repeatedly arrested and twice detained her at NIA headquarters for weeks at a time. Two men she described as Jungulers, took her from her cell and beat her:

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[120] Ugandan Anti-Homosexuality Act – 2014, http://www.refworld.org/pdfid/530c4bc64.pdf (accessed July 7, 2015).

> They wanted me to say that I am a lesbian and to tell them the names of the lesbians I knew. They said they would kill me; they took me behind the NIA building and beat me with a fan belt. They forced me to say that I was a lesbian.[121]

She believes the list of names she gave was then used by authorities to track down and arrest supposed gay and lesbian Gambians.

A witness told Human Rights Watch that he saw a man suspected of homosexuality being detained by NIA agents on November 9, 2015. He said the man was held at NIA headquarters for eight days, where he was observed being subjected to regular abuse at the hands of NIA officials. He was then detained at Mile 2's maximum security wing for nine months, while he was prosecuted with one other man for alleged "unnatural acts."

They tried to force him to give the names of homosexuals in Gambia, but he refused. They beat him again and again with a club and fists. Once, they threatened him with death if he didn't give them the names, especially those in Banjul.[122]

On July 31, the two men on trial charged with "unnatural acts" were acquitted for lack of evidence and released. A third man, also detained in November by NIA agents and charged with "unnatural acts," was, at the time of writing, out on bail and his trial ongoing.

Even before the 2014 amendments, LGBT people in Gambia had faced various forms of abuses, including arbitrary arrests and discrimination when applying for jobs. One gay man, who was arrested in 2012 with 17 other men, said that he was held for six days by police, before a swift trial on charges of "unnatural acts." He told Human Rights Watch:

> We were at a birthday party and the police and two NIA agents came and arrested us. They took us to Kairaba police station and held us there for six days. They would parade us out of the cell and tell everyone we are

[121] Human Rights Watch interview with a Gambian woman, April 30, 2015.

[122] Human Rights Watch interview with a Gambian man, August 10, 2015.

> homosexual. They beat one man because he had a phone and was sending messages to the outside.[123]

All 18 men were acquitted for lack of evidence, but continued to be harassed by security forces, and their police records resulted in further discrimination. One of the 18 men told Human Rights Watch:

> They didn't charge any of us, but they said they would continue investigations. They took our fingerprints and registered us as "homosexuals" so that any institution can access our police record that says we are homosexuals. When my friend finished his teaching qualifications and tried to get a job as a teacher, the school refused. They said he was a homosexual.[124]

Several interviewees described having to bribe security officers to avoid arrest or to get out of detention. One lesbian woman said she and three other women, including her girlfriend, were arrested in September 2014:

> Four NIA came into our compound, took four of us to Kotu police station in Serekunda and questioned us in separate rooms. They threatened that a doctor will come to test if we are lesbians. He will put a tube in our vaginas to test, they said. They kept [two of us] who look more like men. So I paid £200 ($312) to make sure we got out.

A gay man who escaped the country in September 2014 described a general state of fear among LGBT people:

> Before I left the Gambia, there was a lot of fear. There hadn't been the mass arrests, but because the president was speaking out a lot of threats, there was a lot of fear. The president has the last say, he is the authority, and he has put this hatred between the public and the LGBT community.[125]

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[123] Human Rights Watch interview with a Gambian man, January 28, 2015.

[124] Human Rights Watch interview with a Gambian man, January 28, 2015.

[125] Human Rights Watch interview with a Gambian man, June 17, 2015.

An April 2013 amendment to section 167 of the Criminal Code also criminalizes men who dress as women and male sex workers with punishments of up to five years in prison and fines of 20,000 dalasi ($497).[126] Laws that bar men from dressing as women discriminate against transgender women and violate their rights to freedom of expression of their identity and equal protection before the law. They expose an already vulnerable group to further harassment and abuse, where state security forces can easily target them on the basis of their clothing or gender presentation.

The new Criminal Code amendments targeting the LGBT community and the president's frequent anti-gay hate speech have encouraged the police and other security forces to search for LGBT people to arrest, detain, and prosecute them. Even more dangerously, they create an environment where LGBT people may become subjected to violence and further discrimination on a wide scale.

Gambia's laws criminalizing consensual, private sexual activity between adults of the same sex are contrary to the country's constitution and violate the country's international and regional legal obligations.

Legal Protections

Gambia's constitution provides that "all persons shall be equal before the law," and no person shall be discriminated against irrespective of any other status "whereby persons of one such description are subjected to disabilities or restrictions to which persons of another description are not made subject."[127]

Gambia's anti-gay laws violate the right to privacy and the right to freedom from discrimination, protected under the ICCPR.[128] Arresting someone based on consensual same-sex conduct violates the prohibition on arbitrary detention.[129]

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[126] Amnesty International, "Gambia: Principal Act Raises Serious Human Rights Concerns," May 7, 2013, public statement, AFR 27/003/2013.

[127] Constitution of the Second Republic of the Gambia, 1997, reprinted 2002, http://www1.umn.edu/humanrts/research/gambia-constitution.pdf (accessed July 6, 2015).

[128] ICCPR. Articles 2 and 26 of the ICCPR affirm the equality of all people before the law and the right to freedom from discrimination. Article 17 protects the right to privacy. See also Human Rights Committee, *Toonen v. Australia*, 50th Sess., Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992, April 14, 1994, sec. 8.7.

[129] See *Francois Ayissi et al. v. Cameroon*, Working Group on Arbitrary Detention, Opinion No. 22/2006, U.N. Doc. A/HRC/4/40/Add.1 at 91, January 23, 2006.

A June 2011 resolution of the UN Human Rights Council that specifically addresses discrimination against LGBT people, states that laws criminalizing homosexuality violate the internationally protected right to non-discrimination.[130]

The African Charter on Human and Peoples' Rights provides that "[e]very individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, … or other status."[131] Furthermore, "[e]very individual shall be equal before the law [and] "be entitled to equal protection of the law."[132]

The African Commission on Human and Peoples' Rights has argued that discrimination on the basis of sexual orientation violates non-discrimination provisions in the African Charter.[133]

In a landmark resolution adopted in May 2014, the African Commission called on African governments to enact laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities.[134] The commission acknowledged the widespread and increasing acts of violence, discrimination, and human rights abuses faced by people across the continent because of their sexual orientation or gender identity. It also noted the disturbing failure of law enforcement to investigate and prosecute perpetrators of such violence.[135]

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[130] UN Human Rights Council Resolution 17/19 on Human rights, Sexual Orientation and Gender Identity, adopted June 14 2011, A/HRC/RES/17/19,

[131] African Charter on Human and Peoples' Rights (Banjul Charter), adopted on June 27, 1981, entered into force October 21, 1986, OAU Doc. CAB/LEG/67/3 rev. 5,21 I.L.M. 58 (1982), article 2.

[132] Ibid., article 3.

[133] African Charter on Human and Peoples' Rights (ACHPR) (Banjul Charter), adopted on June 27, 1981, entered into force October 21, 1986, OAU Doc. CAB/LEG/67/3 rev. 5,21 I.L.M. 58 (1982), article 2; *Zimbabwe Human Rights NGO Forum v. Zimbabwe*, sec. 169, AHRLR 128 (ACHPR 2006), sec 169, May 2006.

[134] ACHPR Resolution 279, 55th Ordinary Session, 28 April – 12 May, 2014, Angola.

[135] Ibid.

VI. Attacks on Free Speech and the Media

There is a general sense of fear in all of us. You can't report anything critical of government. The hot, dangerous topics are largely human rights issues… As a journalist, you know more than you report. You are afraid of torture and in the worst case, that you may be killed, or you will have to flee and you know you can never come back… Journalism and the army might be the two most dangerous jobs in this country.[136]
– Gambian journalist, April 2015

Journalists appear to be specifically targeted by the Gambian government, with the apparent aim of silencing criticism and suppressing the free flow of information within the country and to the outside world. Since 2004, two journalists have been murdered or forcibly disappeared in Gambia. Dozens have been arbitrarily arrested and tortured in detention. The international free expression organization Article 19, which has been monitoring media freedom in Gambia for over a decade, reports that more than 100 journalists have left Gambia because of fear of abuse.[137]

In March 2006, the *Independent* newspaper was closed down by government agents and its editor, Musa Saidykhan, and a journalist, Madi Ceesay, were detained and tortured at the National Intelligence Agency headquarters in Banjul for 22 day.
© Human Rights Watch, 2015

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[136] Human Rights Watch interview with a Gambian journalist, April 24, 2015.

[137] Article 19, "UNHRC: State Violence in Gambia Sustains Apparatus of Censorship," June 19, 2015, http://www.article19.org/resources.php/resource/38008/en/unhrc:-state-violence-in-gambia-sustains-apparatus-of-censorship#sthash.aLjrBMzg.dpuf (accessed June 29, 2015).

Human Rights Watch interviewed nine Gambian journalists of whom eight had fled the country. Four of these journalists were arrested by state security between 2012 and 2014 as a result of articles they wrote or stories they were investigating.

The journalists described operating in a climate of fear and having to flee after having been regularly threatened, arrested, detained, and sometimes tortured for publishing or even investigating stories that were critical of the government, exposed human rights abuses, or covered the opposition in a seemingly favorable light.

One journalist, arrested and detained with his colleague for four days by police in September 2012 after writing articles about the August 2012 execution of nine death row prisoners, told Human Rights Watch that after making bail, he continued to be harassed by police, having to report to them daily. Two months later, following further threats from the men he believed to be state security agents, he decided to leave the country:

> A black pickup [truck] with men all dressed in black, two in front, two back, came to my house. They were armed with AK-47s [assault rifles]. One said: "You are a strong-headed journalist. You have to leave the country or be killed. We will not come to warn you again."[138]

An email sent to him and his colleague by an unknown person, and made available to Human Rights Watch, read:

> Unpatriotic Citizens,
> Read this Tobaski warning. It is left to you to make a choice. You choose to live or die. You must take one… You are stubborn fucking guys who want to destroy the image of the APRC Government and our affectionate President Yahya Jammeh. You think that you can apply for permit to bring the Tunisian, Egypt, Algeria, Seria and Libya situation here. I will come with my team of patriotic killers who kill for the love of our country and our President… I know that you are dealing with Gambian dissidents abroad, but you will not survive it at all... We will get all of you and slaughter you like Tobaski Rams. We will come for you without any further information.

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[138] Human Rights Watch interview with a Gambian journalist in exile, January 17, 2015.

One journalist described how the authorities detained and threatened him for investigating excessive force by the Tourism Security Unit, a unit implicated in abuses while rounding up so-called "bumsters," young Gambian men involved in sexual tourism, from tourist areas near Banjul in 2009. He said:

> I was investigating a story on the Tourism Security Unit abuses of "bumsters" and they arrested me. I was there for five hours; they interrogated me, took me to my house, searched it, then brought me back to their base. They only released me on condition that I will not write anything about it and made me delete all photos on my camera. I had evidence of the beatings by them on my camera. They made me sign a statement saying I would not publish anything. They copied my ID card and threatened to come after me.[139]

Journalists who remained in Gambia described facing an awful choice: significantly censor what you report on or risk your life and that of your family. They described routinely reporting far less than they know and avoiding topics that could incur the wrath of the authorities, particularly, they said, the president.

Several journalists described being targeted for sharing information with international human rights or development organizations, and international or diaspora media outlets.

There is no international media presence in Gambia, indicative of the risk associated with being a journalist in the country. International media organizations are unwilling to contract local stringers due to the high risk associated with reporting in Gambia.

A former Voice of America bureau chief told Human Rights Watch: "Quite frankly it's too dangerous for reporters of foreign media in the Gambia."[140] The Associated Press has covered Gambia from Senegal since January 2013, after the detention of their stringer at the time. And the Reuters long-time stringer, Pap Saine, covers the country from Cameroon.

In August 2015, an Al Jazeera TV crew who went to Gambia to report on human rights issues, agricultural sustainability and migration, were blocked from reporting.

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[139] Human Rights Watch interview with Sanna Camara, Gambian journalists in exile, April 5, 2015.

[140] Human Rights Watch correspondence with Anne Look, former VOA West Africa bureau chief, June 18, 2015.

State media, known as the Gambia Radio and Television Services (GRTS), owns the only broadcast TV operation in country, although foreign cable and satellite TV channels are accessible. The 2009 Information and Communication Act entrusts regulation of broadcasting to the executive.

Editorial control of state media is unbalanced. One opposition leader told Human Rights Watch that opposition voices are consistently denied air time by state media.

State TV, funded by tax payers, should provide divergent views of the people of Gambia. But no opposition party leader is allowed to use state media. We ask regularly for coverage, but neither state radio or TV will give us air time. [141]

A journalist told Human Rights Watch that around elections, opposition voices are allocated very little air time:

> Our constitution provides for opposition and media space – state media should give divergent views, but in practice they do not do that. Usually 10 days before voting, they say each party has 10-15 minutes a day for TV coverage, and outside of that there is no opposition TV space. And GRTS state TV still has editorial control over the slots they give the opposition.[142]

The 2004 Newspaper Amendment Act required all media outlets to re-register at the Registrar General's office within two weeks of the coming into force of the law, and obliged private media outlets to post a bond of D500,000 ($12,413), a four-fold increase on the previous registration fee.[143] Press freedom group, Article 19, said the new law was "excessive and tantamount to censorship."

While many private radio and print news outlets operate, none are truly free to report news independently. A real risk of being shut down by the government – temporarily or permanently – means editors regularly censor themselves to survive. There is a history of

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[141] Human Rights Watch interview with an opposition leader, June 1, 2015.

[142] Human Rights Watch interview with a Gambian journalist, April 24, 2015.

[143] "Article 19 Concerned over Adoptions of Newspaper Amendment Act 2005 and Criminal Code (Amendment Bill)," Article 19 press release, January 19, 2005, https://www.ifex.org/the_gambia/2005/01/19/article_19_concerned_over_adoption/ (accessed July 20, 2015).

periodic media blackouts and state closures of certain private media, particularly at times of political unrest, where state security forces physically close down the premises. For example, after the December 2014 coup attempt, the state security services closed down radio station Taranga FM, regularly the target of government closures, for four days in January[144] and ordered the station to play only music.[145] Taranga FM and the *Daily News* and *Standard* newspapers were also closed down in August 2012, without reason or court document. Editors said they felt they were targeted because of the extensive coverage they gave to the execution of nine death row prisoners earlier that month[146].

The manager of Taranga FM, Alagie Abdoulie Ceesay, at time of writing, has been charged with seven counts of sedition and publication of false news for allegedly sending by mobile phone a photograph of president Jammeh that authorities say shows "intention to raise discontent, hatred or disaffection amongst the inhabitants of The Gambia."[147] Prior to his trial, Ceesay had been picked up twice in July 2015 by members of the NIA, held without charge for 11 days at NIA headquarters, and tortured.[148]

A witness to Ceesay's injuries told Human Rights Watch:

> [Ceesay] told me during the first day, he was taken to a location that he has no idea about and beaten until he felt unconscious. He was forced to drink cooking oil like water, on several occasions…his face was full of bruises, small wounds and his back was swollen and all marked with beating marks. He was limping, he could not walk properly because of the beatings.[149]

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[144] Human Rights Watch interview a Gambian journalist, May 28, 2015.

[145] "Gambia Radio Station Censored, Director Harassed after Foiled Coup," *Committee to Protect Journalists (CPJ)*, January 8, 2015, https://cpj.org/2015/01/gambia-radio-station-censored-director-harassed-af.php (accessed June 30, 2015).

[146] US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Report on Human Rights Practices 2012 – Gambia," April 19, 2013, http://www.state.gov/j/drl/rls/hrrpt/2012/af/204123.htm (accessed July 8, 2015).

[147] Mamadou Dem, "Taranga FM Manager Dragged to Court, Remanded," *Foroyaa Newspaper*, August 5, 2015, http://www.foroyaa.gm/archives/6417 (accessed August 6, 2015).

[148] Human Rights Watch correspondence with a witness to Ceesay's injuries (after Ceesay was released on July 13 and before he was picked up again on July 17, 2015), July 20, 2015.

[149] Human Rights Watch correspondence with a witness to Ceesay's injuries (after Ceesay was released on July 13 and before he was picked up again on July 17, 2015), July 20, 2015.

Prosecutions for "False Information" and "False News"

Since 2013, the government has used a series of increasingly repressive laws to muzzle freedom of speech, affecting not only journalists but anyone communicating across any media, including the internet, social media, telephones, or even in private conversations. An April 2013 amendment to the criminal code increased the prison time from six months to five years and the fine from 500 dalasi ($12) to 50,000 ($1,226) for providing "false information" to a public servant. The amendment also expands the definition of public servant to include the president, vice president, ministers, and national assembly members. The Gambia's constitution does not recognize these officials as public servants.[150]

In July 2013, the Information and Communications Act was amended to include a series of new offenses for online speech, including "spreading false news" about the government or public officials. The offenses are broad and vague and the punishments are harsh and disproportionate – spreading false new is punishable by a 15-year prison term and a fine of up to 3 million dalasi ($73,576).

The government has also tightened its control over social media and the Internet. In 2014, Gambia temporarily shut down the free internet, phone, and text service, Viber – a popular way for Gambians in-country and in the Diaspora to communicate; and, internet café registration regulations introduced in April 2013 require an onerous application process.[151]

The charge of "sharing false information" is overly broad and vague. Human Rights Watch found it has been used frequently to intimidate and sometimes prosecute and imprison or fine those publishing or saying things critical of the government.

Several people including journalists, opposition members, civil servants, and student leaders told Human Rights Watch they had been arrested and detained on charges of spreading false information.

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[150] "Amended Gambian Media Law Restricts Internet Freedom," *CPJ press release*, July 10, 2013, https://www.cpj.org/2013/07/amended-gambian-media-law-restricts-internet-freed.php (accessed June 30, 2015).

[151] Freedom House, "Freedom on the Net 2014: The Gambia," 2014, https://freedomhouse.org/sites/default/files/resources/Gambia%2C%20The.pdf (accessed July 21, 2015).

For instance, in April 2014, journalist Sanna Camara was arrested and charged with false publication for writing an article on human trafficking in Gambia, a widely recognized problem in the country.[152] He described being harassed and threatened to the point where he could no longer stay and continue work as a journalist:

> Two days after they bailed me [out of jail], I had to report to the major crimes unit at police headquarters. For the next two months, I had to report two or three times a week. Legally, they have no case against me –they are just harassing me. They interrogated me, asking questions about my sources. They wanted to know who are the people I worked with in Gambia on the trafficking story.[153]

In 2014, an opposition leader was arrested on charges of unlawful gathering and sharing false information. He told Human Rights Watch:

> Freedom of expression in this country is bad. You can be tried simply for what you are saying. For example, if they knew I was talking to you now, they would charge me for spreading information to an unknown person. They want to stop people from talking freely about what is happening here.[154]

Another journalist[155] was arrested with his colleague on false information charges in January 2014, under the newly amended Information and Communications Act, in relation to an article he wrote for *The Voice* newspaper about ruling party youth defecting to the opposition. He told Human Rights Watch that the police said they were acting on orders of the president:

> Three or four weeks after the article was published, we received a call from NIA saying they are also investigating the defection and they wanted to bring me in for questioning. At Sanya police station [30 kilometers from Banjul], they interrogated me: "We want to know the sources for this story. We cannot grant you bail, because this is an executive directive." I saw with

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[152] Sanna Camara, "Police Admit 'Problems' with Human Trafficking," *The Standard*, June 27, 2014, http://standard.gm/site/news/4063-Police-admit-problems-with-human-trafficking.html (accessed June 29, 2015).

[153] Human Rights Watch interview with Sanna Camara, May 5, 2015.

[154] Human Rights Watch interview with Gambian opposition leader, June 8, 2015.

[155] Human Rights Watch interview with Gambian journalist in exile, January, 23 2015.

> my eyes the letter that read from the president's office to police to say they should arrest us both.

Fatou Camara, former state house press secretary and broadcast TV journalist, told Human Rights Watch that she was first picked up from her home in Bijilo by state house guards on September 15, 2013, and held for two days at NIA headquarters without charge.

> I was working for the president as his press secretary and then I was removed without reason. A few weeks afterwards, two state house guards came to my house at night and took me to the NIA headquarters. I found 19 other men who were also all detained there, some of whom I worked with at the Office of the President. None of us knew why we were there.

Shortly after her being released, Camara was rearrested and held incommunicado for 25 days at the NIA headquarters. She was eventually charged with the crime of "spreading false news and publication of false news with intent to tarnish the image of the President," and accused of providing information to the editor of *Freedom* newspaper, a diaspora online news site.

These repressive laws have been used to control the slightest critical speech. In June 2015, a Gambian newspaper reported that a former NIA staff member, Babucarr Beyai, was found guilty of "publishing false information," after he was heard in conversation over the phone saying that the NIA director had been dismissed. He was fined 50,000 dalasi ($1,226).[156]

Popular musicians are also censored by threats from state security. On June 23, 2015, Gambian rapper Ali Cham, known as "Killa Ace," released a song in Gambia criticizing the government for abuses and repression. On the same day, he said his family received calls from NIA agents looking for him. He said he received death threats from unknown callers and decided to flee in July to Senegal.[157]

Harassment and criminal prosecutions of journalists and those who use online forums to criticize the government are facilitated by such draconian legislation. This violates basic

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[156] Fatou Jallow, "False Information Publisher Fined D50,000," *The Point*, June 5, 2015, http://thepoint.gm/africa/gambia/article/false-information-publisher-fined-d50000 (accessed June 28, 2015).

[157] "Gambian rapper seeks asylum in Senegal after death threats," *Reuters*, July 23, 2015, http://af.reuters.com/article/senegalNews/idAFL5N1034FP20150723 (accessed July 29 2015).

rights to freedom of expression, peaceful assembly and association protected under the Gambian Constitution.[158] Such legislation also violates the African Charter on Human and Peoples' Rights,[159] and the International Covenant on Civil and Political Rights (ICCPR),[160] both ratified by Gambia.

[158] Constitution of the Gambia, 1997, article 25.

[159] African Charter, articles 9, 10 and 11.

[160] ICCPR, articles 19, 21 and 22.

VII. Restrictions on NGOs and Human Rights Defenders

> I will kill anyone who wants to destabilise this country. If you think that you can collaborate with so-called human rights defenders, and get away with it, you must be living in a dream world. I will kill you, and nothing will come out of it. We are not going to condone people posing as human rights defenders to the detriment of the country. If you are affiliated with any human rights group, be rest assured that your security and personal safety would not be guaranteed by my government. We are ready to kill saboteurs.
> – President Yahya Jammeh, September 2009

While there are some longstanding Gambian nongovernmental organizations (NGOs) working on governance and civic education, none of these groups actively document and publicly report on human rights abuses within the country. The few human rights organizations based in Gambia, work on other countries in the region, or human rights issues linked to the Banjul-based African Commission on Human and Peoples' Rights.[161]

NGOs in Gambia are governed by Decree No. 81, which had been adopted during military rule in 1996 and not amended since. Decree No 81. sets out criteria for registration of NGOs and places NGOs under the supervision of the Ministry of Local Government and Lands. In 2010, the agency governing NGOs was placed under the Office of the President, allowing additional executive control.

NGOs must register first with the Attorney General to operate as legal entities and then must register as an NGO with the NGO Affairs Agency that coordinates between NGOs, state bodies and relevant ministries. These registrations allow NGOs access to limited duty waivers. All NGOs must submit a detailed work plan and budget at the beginning of the fiscal year and a detailed annual report including financial accounting at the end. NGOs that do not comply can be cautioned or have their status revoked.[162]

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[161] African Center for Democracy and Human Rights Study (ACDHRS); Institute for Human Rights in Development in Africa (IHRDA) – both based in Banjul.

[162] The Observatory of the Protection of Human Rights Defenders (OBS), Report on The Gambia : Climate of fear amongst the community of human rights defenders, July 2011, https://www.fidh.org/IMG/pdf/reportthegambiaobsjuly2011.pdf (accessed June 28, 2015).

In this way, the activities of NGOs are strictly monitored and their programs must align with national development plans. In order to avoid reprisals from the authorities, most NGOs focus on non-controversial topics, such as education and health. The NGOs that do not are subject to harassment by the authorities.

In September 2010, Edwin Nebolisa Nwakaeme, a Nigerian human rights defender and director of the Banjul-based Africa in Democracy and Good Governance (ADG), was convicted of "spreading false news" to public officials. He was accused of falsely declaring ADG had status of an NGO, though the organization was reportedly legally registered as an NGO by the Attorney General in 2006. He was jailed for six months. The offices of ADG were closed down and their license revoked on March 1, 2010 – the same day Nwakaeme was arrested.[163]

Student organizations are also vulnerable to state harassment. In April 2011, 10 leaders of a student non-profit organization, with 400,000 student members across the country, were arrested and questioned at police headquarters regarding the budget for the organization's annual congress submitted to the NGO Affairs Agency. Members said they were forced by police to sign a piece of paper that was then used to convict them in court. One student leader said:

> They called us one by one. They put force on us and said you must sign this paper. They took our phones and we had no contact with family members during that time. Then they used that paper in court as evidence – we were found guilty based on this paper, but I never saw what was written there.[164]

The following day, they were sent to court and convicted of conspiracy to commit a felony and sentenced to two years in prison or a fine of 10,000 dalasi ($245).

Following a June 6, 2011 letter by the executive of the student organization apologizing to the president, President Jammeh instructed the Attorney General's office to "withdraw legal proceedings against them." [165]

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[163] "The Gambia: Detention and Trial of Human Rights Defender Mr Edwin Nebolisa Nwakaema," Front Line Defenders, March 10, 2010, https://www.frontlinedefenders.org/node/14247 (accessed June 18, 2015).

[164] Human Rights Watch interview with student leader, April 22, 2015.

[165] Letter from the Office of the President to the Solicitor General & Legal Secretary, July 7, 2011.

On October 11, 2010, NIA agents arrested two human rights activists, Isatou Touray and Amie Bojang-Sissoho, and charged them with theft of €30,000 from the Spanish organization, Yolocamba Solidaridad. Both worked for the Gambia Committee on Traditional Practices (GAMCOTRAP), a Gambian NGO set up in 1984 to promote gender equality and to end harmful practices such as female genital mutilation. The following day in court, their request for bail was denied and they were sent to Mile 2 prison to await trial.

Prior to their trial in May 2010, the president set up a commission of investigation into allegations that GAMCOTRAP had mismanaged funds. When the commission found no wrongdoing, several members were dismissed. Their trial continued for two years after they were bailed, over which period, Touray and Bojang-Sissoho were summoned to 66 hearings. On November 12, 2012, the two activists were acquitted.

In September 2012, two journalists in Banjul requested a permit to protest the August 2012 death row executions. They were promptly arrested when they went to the police to collect the permit. One of the journalists told Human Rights Watch that they were held in solitary confinement for four days without charge at a police station. He said that after posting bail of 250,000 dalasi ($6,131), he had to report daily to the police, his home was searched by security agents, and he received a death threat over email.

VIII. Lack of Redress for Abuses

> The legal gap governing their conduct and, equally, sanctioning their abuses, and the public perception that the institution operates behind a veil of impunity and that, ultimately, it has the power to exercise unrestrained control over the lives of Gambian citizens, makes the lodging of complaints of misconduct by its agents all the more implausible.[166]
> – Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, May 2015

Human Rights Watch found that, despite widespread allegations of serious abuses committed by the state security forces, very few investigations have been conducted, and to the knowledge of Human Rights Watch, no members of the NIA, NDEA, police or paramilitary groups are known to have been convicted or otherwise held to account for torture, killings or other serious violations.

In 2011 and 2012, four NIA officers – Lamin Darboe, Ebrima Drammeh, Edrisa Jobe and Omar Jammeh – were prosecuted on charges of conspiring to cause injury and unlawfully wounding two people in their custody in May 2009. They allegedly beat the men with fists, electric cables and metal bars. All four were acquitted on November 14, 2012.[167]

One lawyer told Human Rights Watch they knew of just a handful of cases brought against NIA officials for torture:

> "There is infighting within NIA factions or the police, and so they implicate each other in cases. It is more like a witch hunt, except for political reasons, than an attempt to pursue justice."[168]

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[166] UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to the Gambia, A/HRC/29/37/Add.6, May 27, 2015.

[167] Mamadou Dem, "Court Adjourns Torture Case," *Foroyaa Newspaper*, May 21, 2011, http://www.ghanamma.com/news/court-adjourns-torture-case/ (accessed June 30, 2015); Ousman Nije, "Gambia: NIA Quartet Acquitted and Discharged" Foroyaa Newspaper, November 16, 2012 http://allafrica.com/stories/201211180274.html (accessed June 30, 2015).

[168] Human Rights Watch interview with Gambian lawyer, June 30, 2015.

The country has yet to set up a human rights commission –an institution that could help to facilitate state investigations into rights violations and protect citizens' rights. The Human Rights Unit within the Gambian Police Force, tasked with investigating alleged human rights abuses by the police, routinely fails to fulfill its mandate. The unit does not have jurisdiction over the NIA, NDEA or the military.

The UN Special Rapporteur on torture reported that, "Only one case has been reported to the Human Rights Unit, and it concluded that the injuries suffered by the complainant were caused by the fact that he resisted arrest."

On April 10 and 11, 2000, police fired live rounds into groups of students protesting the alleged torture and killing of fellow student Ebrima Barry by members of the Brikama fire department, and the alleged rape of a 13-year-old schoolgirl by a police officer. Over two days in greater Banjul, security forces killed 14 people, including 6 children.[169] A national commission of inquiry set up to investigate their deaths concluded that state security were responsible for the deaths, but no one was ever brought to account for these killings.[170]

Victims of human rights abuses rarely seek redress in the courts because of the widespread fear of retaliation by the security forces, and to a lesser extent, because of the perceived lack of independence of the judiciary. The UN Special Rapporteur on executions found that "citizens are reluctant to denounce abuses, engage legal services or seek redress, even for the most serious violations, including disappearances, torture or probable executions."[171]

One lawyer told Human Rights Watch that lawyers in the country steer clear of any cases that could be considered controversial:

> A lot of lawyers refuse cases because of fear; some of them shy away from criminal law altogether. I am worried because of the atmosphere of fear that

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[169] "Gambia: Students Shot," Africa Confidential, April 14, 2000, http://www.africa-confidential.com/article/id/845/Students_shot (accessed June 14, 2015).

[170] US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Report on Human Rights Practices 2000 – Gambia," February 23, 2001, http://www.state.gov/j/drl/rls/hrrpt/2000/af/799.htm (accessed July 7, 2015).

[171] UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions.

> surrounds the whole country, especially when working in the human rights field. I don't feel that safe, but I've had no direct threats or harassments.[172]

Several courageous lawyers have nonetheless strived to represent victims of arbitrary detention and enforced disappearance. In several cases, their efforts have led to acquittals and the habeas corpus petitions they have filed have led to the release of detainees.

A further problem in ensuring redress stems from the fact that elements within the NIA, the presidential guard, the Jungulers and other paramilitary groups operate almost completely outside of the law.[173] A former criminal court judge, lawyers, former intelligence officials, and victims themselves told Human Rights Watch that men from these units behave as if they are above the law. A former senior magistrate told Human Rights Watch that members of these groups regularly disobey court orders to allow acquitted defendants to go free and to free detainees who have been held beyond the 72-hour detention limit:

> The NIA has powers to do whatever they want. These are intimidation tactics, they do not care. They are outside of the court's jurisdiction. They can arrest judges if they want. They do not obey court orders. The orders are just formalities, you know they are not going to obey it but you do it anyway, for the record.[174]

The Indemnity (Amendment) Act, introduced in 2001, allows the president to grant amnesty to any person, including members of the security forces, accused of misconduct during unauthorized gatherings or other emergency situation. This also discourages people from reporting abuses committed by security forces and seeking redress for crimes committed during the country's 1994-1996 military rule.[175]

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[172] Human Rights Watch interview with Gambian lawyer, April 25, 2015.

[173] Human Rights Watch interviews with a former magistrate, a lawyer, former intelligence officials and victims, January, April, May, June 2015.

[174] Human Rights Watch interview with former magistrate, June 8, 2015.

[175] US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Report on Human Rights Practices 2012 – Gambia," April 19, 2013, http://www.state.gov/j/drl/rls/hrrpt/2012/af/204123.htm (accessed July 8, 2015).

The former senior magistrate told Human Rights Watch that several judgments he made in high-profile cases resulted in conflicts with the chief justice of the Supreme Court, who is widely perceived to be greatly influenced by the president:

> In that kind of legal battle, you just side with government because you don't want the repercussions. At end of day, you say you don't have jurisdiction, you pass the buck to someone else, to the high court. This happens all the time.[176]

Gambia has had three chief justices between 2013 and 2015.[177] Chief Justice Ali Nawaz Chowhan, from Pakistan, left Gambia just three months after his appointment in March 2015. Chowhan told a Pakistani newspaper he decided to step down after his decision to acquit former Gambian naval chief Sarjo Fofana in a treason case: "Since the Gambian government was not happy with the decision, I, therefore, decided to step down because I could not work in such an environment.[178] Ghanaian Chief Justice Mabel Agyemang was dismissed after six months in February 2014 without official reason, and Nigerian Chief Justice Joseph Wowo was dismissed in July 2013, five weeks after his appointment. Wowo was arrested, tried, and convicted of 13 charges, including abuse of office, interfering with witnesses, and giving false information to a public officer. He was sentenced to two years in jail.[179] Wowo was released on July 30, 2015, as part of a few hundred prisoners pardoned by Jammeh on July 22.[180]

Access to justice remains a key problem for many victims and those in the criminal court system. The National Agency for Legal Aid was set up in 2010 to provide legal aid for those

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[176] Human Rights Watch interview with former magistrate, June 8, 2015.

[177] The majority of Gambia's Chief Justices are foreign nationals. The small size of the country means low numbers of Gambian legal professionals, so Gambia imported chief justices from other countries. Until Gambia pulled out of the Commonwealth (a group of 54 countries made up of largely former British colonies) in 2012, judges were seconded from Commonwealth countries to serve as Gambia's chief justice.

[178] Malik Asad, "Profile: From Pindi to Gambia and back," *Dawn*, May 26, 2015, http://www.dawn.com/news/1184293.

[179] Malamin L.M. Conteh, "Gambia: Former Chief Justice Wowo Jailed Two Years," The Point, January 10, 2014, http://thepoint.gm/africa/gambia/article/former-chief-justice-wowo-jailed-two-years (accessed July 21, 2015).

[180] "Former Navy Commander, Ex-CJ Among those Released," Foroyaa Newspaper press release, August 2, 2015, http://www.foroyaa.gm/archives/6355 (accessed August 2, 2015).

facing a life sentence or the death penalty. But, it has been crippled by lack of adequate funding, and, to date, employs just two active lawyers.[181]

Given the lack of response of the state, several victims or their family members have gone to the ECOWAS Community Court of Justice, which has rendered three judgments for abuses in Gambia. In all three cases – the July 2006 enforced disappearance of Ebrima Manneh, the March 2006 torture of journalist Musa Saidykhan, and the 2004 killing of journalist Deyda Hydara – the court issued judgments against Gambia. However, in all three cases, Gambia has not complied with the rulings.

International human rights law obligates governments to provide reparations to victims of serious human rights violations. The Universal Declaration of Human Rights provides for a right to remedy for violations of rights protected "by the constitution or by law."[182] The ICCPR requires governments to provide an "effective remedy" for violations of rights and freedoms and to enforce such remedies.[183] The UN Human Rights Committee, the international expert body that monitors state compliance with the ICCPR, has affirmed the obligation of governments "to provide an effective remedy" for human rights violations, including restitution and "bringing to justice the perpetrators of human rights violations."[184]

The Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law (Basic Principles and Guidelines) reaffirms and elaborates on these international legal obligations.[185] Endorsing this draft document, the UN Commission on Human Rights had noted that a state must grant or facilitate reparation in accordance with its duty to respect and ensure human rights.[186]

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[181] Institute for Human Rights and Development in Africa (IHRDA), "Legal Aid in the Gambia: An Introduction to Law and Practice," April 2012, http://www.ihrda.org/wp-content/uploads/2012/04/legal-aid-pamphlet-website-download.pdf (accessed July 8, 2015).

[182] Universal Declaration of Human Rights, General Assembly Resolution 217A (III), December 10, 1948, articles 8, 9(5), http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx (accessed June 27, 2015).

[183] ICCPR, article 2(3)/.

[184] UN Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, U.N. Doc. CCPR/C/74/CRP.4/Rev.6 (2004), para. 16.

[185] M. Cherif Bassiouni, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law (Basic Principles and Guidelines), (Fifty-sixth Session), U.N. Doc. E/CN.4/2000/62, January 18, 2000, annex, preamble.

[186] See UN Commission on Human Rights, The Right to Restitution, Compensation and Rehabilitation for Victims of Grave Violations of Human Rights and Fundamental Freedoms, Res. 2002/44, (51st meeting), April 23, 2002; UN Commission on

The Basic Principles and Guidelines enumerate the main forms of reparation: (a) restitution, meaning the restoration of circumstances that existed prior to the violation; (b) compensation for resulting material losses, as well as physical and emotional pain and suffering; (c) rehabilitation, meaning legal, medical, psychological, and other assistance to the victim; and (d) redress and measures to prevent future violations, through such means as truth-seeking, public acknowledgment, investigation and prosecution of responsible individuals, apology, commemorations and memorials dedicated to the victims, and revision of the historical record.[187]

The Gambian government has an obligation under international law to protect its people from abuses by its security forces and others. This includes conducting prompt, thorough and impartial investigations into all credible allegations of unlawful killings, enforced disappearances, torture and other abuses. All those found to have violated the law, regardless of position or rank, should be prosecuted as appropriate before a competent and independent court that meets international fair trial standards.

The complete impunity with which Gambian state security services have committed numerous serious human rights violations against the people of Gambia over many years reflects fundamental disregard for their most basic human rights.

Human Rights, The Right to Restitution, Compensation and Rehabilitation for Victims of Grave Violations of Human Rights and Fundamental Freedoms, Res. 2003/34, (57th meeting), April 23, 2003.

[187] Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law adopted and proclaimed by General Assembly resolution 60/147 on December 16, 2005, paras. 21-25.

IX. International Efforts to End Human Rights Abuses in Gambia

> Yahya Jammeh is trying to isolate Gambia as much as he can. One day he withdraws Gambia from the Commonwealth of Nations. He withdrew Gambia from the EU and then deported… the EU representative to the Gambia. His goal is to isolate Gambia completely so that the world will ignore Gambia more and more. Gambians generally feel isolated. They want to fight for their rights but there is no one to help.
> – Imam Baba Leigh, religious leader and human rights activist in exile, July 2015

Foreign Donors and Other Governments

In recent years, foreign governments have been increasingly willing to denounce human rights violations in Gambia. Indeed, the draconian anti-gay legislation and persecution of LGBT people has focused global attention on other aspects of the government's human rights record.

EU assistance channeled through the EDF 10 was, in December 2014, frozen over concerns about the country's dire human rights situation, highlighted by a new "aggravated homosexuality" offense punishable by life in prison. To address these concerns, the EU proposed a 17-point plan, with recommendations including measures to: improve freedom of expression and prison conditions; abolish the death penalty; ratify core human rights conventions; and, establish a Human Rights Commission.

In June 2015, Gambia cut ties with the EU, declaring their representative in Banjul persona non grata. There was no official reason given by either Gambia or the EU. Relations between the two have since ground to a halt and plans for an EDF 11 grant of €33 million ($37 million) for 2015-2016 remain frozen. [188]

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[188] Emma Farge, "EU to Keep Withholding Aid from Gambia after Expulsion: Diplomats," *Reuters*, June 17, 2015, http://www.reuters.com/article/2015/06/17/us-gambia-eu-aid-idUSKBN0OX2HZ20150617 (accessed June 28, 2015).

The EU and the United Kingdom have highlighted concerns over the Gambian government's blocking consular access to foreign nationals in Gambian jails.[189]

The United States, in July 2015, noted President Jammeh's decision to pardon and release up to 200 prisoners but also called for the release of all other prisoners held for longer than 72-hours without charge, including journalist Alagie Ceesay. In May 2015, US National Security Advisor Susan Rice said she was "deeply concerned about credible reports of torture, suspicious disappearances and arbitrary detention at the government's hands," and added that the US government is "reviewing what additional actions are appropriate to respond to this worsening situation." In response to the persecution of LGBT Gambians and the July 2013 enforced disappearance of two US citizens in the country, the US dropped Gambia in 2014 from its preferential trade agreement, the Africa Growth and Opportunity Act. A US government foreign aid agency, the Millennium Challenge Corporation, suspended Gambia's eligibility for assistance in June 2006 based on documented evidence of human rights abuses, deteriorating anti-corruption efforts, and growing government-imposed restrictions on political and civil rights.

UN and Regional Human Rights Mechanisms

International and African regional human rights bodies are also increasingly scrutinizing human rights in Gambia.

On February 28, 2015, the African Commission on Human and Peoples' Rights (ACHPR) adopted a resolution on the deteriorating rights situation in Gambia and called on the government to invite the commission to conduct a fact-finding mission into events after the December 2014 attempted coup. Gambia has not submitted reports on implementing the ACHPR Charter for two decades, with 10 reports outstanding, and has not authorized ACHPR fact-finding missions.[190]

In March 2015, Gambia rejected many recommendations from the UN Human Rights Council in Geneva, including abolishing the death penalty, decriminalizing homosexuality,

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[189] UK, "Foreign Travel Advice: Gambia," June 1, 2015, https://www.gov.uk/foreign-travel-advice/gambia (accessed June 29, 2015).

[190] "UNHRC: State Violence in Gambia Sustains Apparatus of Censorship," *Article 19*, June 19, 2015, http://www.article19.org/resources.php/resource/38008/en/unhrc:-state-violence-in-gambia-sustains-apparatus-of-censorship (accessed July 6, 2015).

fighting violence based on sexual orientation and gender identity, raising the minimum child marriage age, and removing restrictions on the freedoms of expression and movement for members of the media and human rights advocates.

Between November 3 and 7, 2014, Gambia received two UN special rapporteurs to investigate allegations of torture and ill-treatment, and extrajudicial and unlawful killings. It was the first visit by UN Special Procedures to the country and both rapporteurs said they were met with unprecedented restrictions to their access to detention facilities and an overriding atmosphere of apprehension and fear from many who engaged with them: "The Special Rapporteur observed a layer of fear that was visible on the faces and in the voices of many he met from civil society and this even extended to some Government officials."[191]

In his report released in March 2015, Juan Mendez, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, found a lack of robust institutions or effective legal mechanisms to counter the broad powers of intelligence and security forces that operate without any legal oversight, and engage in practices that violate human rights with impunity. Mendez found torture to be prevalent and routine, and avoiding arrest a "necessary preoccupation" for Gambian citizens due to the lack of an effective criminal justice system.[192]

In his May 2015 report on Gambia, Christof Heyns, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, noted rampant impunity for extrajudicial executions and enforced disappearances of people perceived to be opponents of the government. He found that security agencies systematically targeted human rights defenders, journalists and political opponents. Heyns also noted that the country is characterized by disregard for the rule of law, infringements of civil liberties, and the existence of a repressive state apparatus. He further noted that state institutions are weak and under the influence and control of the executive power, namely the president.[193] On May 15, 2015, the UN Working Group on Enforced or Involuntary Disappearances transmitted several cases of disappeared Gambians under its urgent action procedure to the Gambian government.

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[191] UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Mission to the Gambia, A/HRC/68/Add.4, March 2, 2015.

[192] Ibid.

[193] UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to the Gambia, A/HRC/29/37/Add.6, May 27, 2015.

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Annex: Human Rights Watch Letter to the Minister of Foreign Affairs in Banjul

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August 26, 2015

Neneh MacDouall-Gaye
Minister of Foreign Affairs
The Republic of Gambia
Banjul

Dear Minister,

I hope this letter finds you well. I am writing to present an advance and embargoed draft copy of our report on the human rights situation in Gambia, to be released in early September, in order to provide the Gambian government an opportunity to respond on our findings and recommendations.

In order to incorporate your response into our report, we would, however, need to receive your response (in writing) by September 4, 2015. Please note that this is a draft copy which is under embargo until a release date (to be announced) in September, 2015.

We very much look forward to receiving your response and maintaining a constructive dialogue with the Gambian government on the important matters and recommendations raised in the report.

Sincerely yours,

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CC: Gambian Embassy, Republic of the Gambia; Minister of Information and Communication Infrastructure, Republic of The Gambia; Minister of Foreign Affairs, Republic of The Gambia; Minister of the Interior, Republic of The Gambia; Secretary General, State House, Republic of The Gambia.

STATE OF FEAR

Arbitrary Arrests, Torture, and Killings

Gambia's human rights record is among the worst in African. Since taking power over two decades ago, President Yaya Jammeh has ruthlessly suppressed dissent, shutdown virtually all independent media, and has routinely cracked down on journalists, opposition members, rights activists, student leaders, religious leaders, relatives of alleged coup plotters, and civil servants. Since 2014 when the Jammeh administration introduced anti-gay legislation which imposes a life sentence for a series of new "aggravated homosexuality" offenses, state security forces have targeted lesbian, gay, bisexual and transgender people with a wave of arrests and detentions.

State of Fear, based on two research trips to Senegal and Gambia and more than 60 interviews, including with victims, witnesses and perpetrators of abuses, documents numerous violations allegedly perpetrated by Gambia's security forces, intelligence agents and a paramilitary group. These include extrajudicial killings, enforced disappearances, torture, and arbitrary arrests and detentions. Many of these violations appear to be used by the authorities to instill fear in the population, which, together with a judicial system lacking independence, prevents victims and family members from seeking justice. The government has systematically failed to protect its own citizens and neglected to hold accountable those responsible for serious abuses.

Human Rights Watch calls on the government of Gambia to urgently investigate and prosecute perpetrators of human rights abuses, disarm and disband paramilitary groups, and ensure security forces respect the due process rights of all individuals. The government should also implement key recommendations from both the United Nations Human Rights Council's 20th Universal Periodic Review of Gambia and the 2015 reports of the UN Special Rapporteurs on torture and on extrajudicial executions.

(above) The main gate of Gambia's Mile 2 prison, less than a kilometer from central Banjul, where political prisoners and people suspected of homosexuality are held in the maximum security wing.

(front cover) Some of the Gambians (including journalists, a businessman and former military chief) who have been forcibly disappeared after being abducted and detained by state security forces, between 2004 and 2015. Journalist Deyda Hydara, an outspoken critic of the Jammeh administration, was murdered on December 16, 2004.

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