



THE SITUATION OF HUMAN RIGHTS DEFENDERS

THE GAMBIA

Committee on the Elimination of Discrimination Against Women Briefing Paper - November 2014

The African Centre for Democracy and Human Rights Studies (ACDHRS) and the International Service for Human Rights (ISHR) are pleased to make the following submission to the Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women in regard to Gambia's obligations under the Convention on the Elimination of All Forms of Discrimination against Women. During the upcoming review with Gambia, we urge the Committee to address the State's obligations to promote and protect the work of women human rights defenders in the country.

THREATS AND RESTRICTIONS FACED BY WOMEN HUMAN RIGHTS DEFENDERS

Women human rights defenders face the risk of threats and attack both on the basis of their gender and their human rights work. In Gambia, discrimination against women as well as extensive violations of the right to defend rights, create a highly restrictive environment for women human rights defenders to work in. If discrimination and violence against women is to be effectively challenged, human rights to be respected and the rule of law upheld, women defenders must be able to operate free from fear or hindrance.

CEDAW Article 7 (c) protects the right of women 'to participate in non-governmental organisations and associations concerned with the public and political life of the country'. Working for the respect of human rights is a key role at the heart of the public and political life of a country. Women human rights defenders in Gambia face a multitude of different obstacles and threats to their work, arising from violations of their right to be protected from violence and discrimination on the basis of their gender, as well as concrete restrictions and threats towards them as human rights defenders. International human rights standards and commitments relating to the elimination of all forms of discrimination against

women and to the right to protect human rights are pertinent to the protection and promotion of the work of women human rights defenders.

One of the principal factors impeding women enjoying their fundamental rights – including the right to defend rights – is the influence of culture, religion and tradition, and their manipulation for political reasons. The elimination of prejudices and customary and all other practices is a cornerstone of the Convention (Article 5). Customs, norms and stereotypes are perpetuated and are prompted by a broad range of legal, political, economic and social constraints on women, including women human rights defenders. Women who take a stand to defend human rights can be accused of stepping beyond the role they are ascribed as women in society. Where these women defenders' work challenges cultural and traditional practices, backlash can be powerful.

CASES OF WOMEN DEFENDERS UNDER ATTACK

The experience of Dr Isatou Touray, the director of Gambian NGO GAMCOTRAP and her colleague Ms Amie Bojang-Sissoho, programme coordinator of GAMCOTRAP is highlighted by the UN Special Rapporteur on Human Rights Defenders in her

2010 report. She noted that the charges against the defenders may be related to their human rights work in support of sexual and reproductive rights and the rights of women and children. The case of Dr Touray and Ms Bojang-Sissoho has been the focus of several civil society reports and urgent appeals by human rights organisations concerned about the criminalisation of a defender due to the nature of her work. These include those by members of the Women Living Under Muslim Laws¹ and the Women Human Rights Defenders' International Coalition.²

In addition, In 2012, Imam Baba Leigh, a religious advisor for the Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP), was disappeared and detained incommunicado for almost six months, and repeatedly subjected to torture for his opposition to the use of the death penalty. President Jammeh has consistently failed to express any concern about attacks or threats toward defenders of sexual and reproductive rights.

STRUCTURAL AND LEGAL GAPS IMPEDING THE DEFENCE OF HUMAN RIGHTS

Structural and legal gaps remain in Gambia which adversely affect the extent to which women can enjoy their rights, in violation of Article 2 of the Convention. Whilst the Domestic Violence Act and Sexual Harassment Act have been passed by the National Assembly, work on the FGM Bill has been painstakingly slow. There are no effective mechanisms to uphold women's rights, including sexual and reproductive rights. Whilst these are areas of concern in their own right, they are also pertinent to women's ability to defend rights and are particularly relevant in regard to women working on issues where the legal and policy framework still fails to uphold international standards.

Gambia's cooperation with human rights mechanisms with mandates related to the eradication of violence against women and the promotion of women's full citizenship has been woeful. No UN Special Rapporteur has visited the Gambia.³

THREATS AGAINST SEXUAL MINORITIES

In regard to those working for the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people in the Gambia, the situation remains grim. Homosexual conduct is criminalised in the 1965 Criminal Code, with a sentence of up to 14 years for those found guilty. In 2005, this was amended to include female homosexual acts. During its Universal Periodic Review in 2012, Gambia rejected all recommendations related to the decriminalisation of homosexuality. In addition, President Jammeh has publicly and repeatedly criticised human rights defenders promoting and protecting the rights of sexual minorities. In a speech to the UN General Assembly on 27 September 2013, President Jammeh called homosexuality one of 'the biggest threats to human existence'.⁴ More recently during a speech on State radio, he spoke of LGBTI people as 'vermin' who he planned to tackle in 'the same way we are fighting malaria-causing mosquitoes, if not more aggressively'.⁵ The recent Bill for the Criminal Code (Amendment) Act 2014 introduces the criminal offence of 'aggravated homosexuality' which carries a sentence of life imprisonment.

The Committee has acknowledged sexual orientation and gender identity as compounding factors in discrimination against women.⁶ Lesbian, bisexual and transgender women face the same barriers as all other women, and are persecuted due to their real or perceived sexual orientation or gender identity. The effects of discrimination multiply. In this context, defending the rights of lesbian, bisexual and transgender people is not done publicly. Those LGBTI organisations that do exist operate informally and are unregistered. Lesbian, bisexual and transgender women cannot openly claim or defend rights.

ABOUT THIS BRIEFING PAPER

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RECOMMENDATIONS TO THE GOVERNMENT OF THE GAMBIA

The government of the Gambia should take the following steps to create an enabling environment for the work of women human rights defenders:

- Enact laws that promote and protect the rights of women, including women human rights defenders, and harmonize existing civil and religious laws all in line with Gambia's obligations under the international treaties it has ratified
- Ensure effective and relevant mechanisms and bodies are put in place to implement policies promoting the rights of women, including women human rights defenders.
- Establish a national human rights institution, fully compliant with the Paris Principles, that places at the heart of its concerns addressing the compatibility of the Gambian legal framework with international human rights commitments, and providing a focus on the protection of women human rights defenders.
- Sign and ratify the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women.
- extend invitations to visit the Gambia to relevant UN Special Procedures, including the Special Rapporteur on Violence Against Women and the Open Working Group on the issue of discrimination against women in law and practice

Women human rights defenders embody the principles encapsulated in the preamble to CEDAW. They are 'convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields'. Gambia must ensure all women human rights defenders – working on the full spectrum of human rights, and for human rights for all – can work without fear or hindrance.

1. <http://www.awid.org/Get-Involved/Urgent-Actions3/UPDATE-Gambia-Trial-of-WHRDs-Dr.-Isatou-Touray-Amie-Bojang-Sissoho-adjourned-to-1-December>
2. <http://defendingwomen-defendingrights.org/about/the-whrd-movement/>
3. The UN Special Rapporteur on Torture and UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions are due to visit from the 3-7 November.
4. <http://www.statehouse.gm/Speeches/UN-68th-Gen-assembly-statement.pdf> (page 7)
5. <http://www.reuters.com/article/2014/02/18/us-gambia-homosexuality-idUSBREA1HIS820140218>
6. CEDAW General Comments 27(2010) and 28 (2010).

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