

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: AL  
GMB 1/2015:

9 April 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 26/12, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the death of three men allegedly involved in the attempted coup d'état of 30 December 2014, as well as the round of arrests, abductions and illegal detentions following that event.

According to information received:

On 30 December 2014, a group of armed men attempted to stage a coup d'état against the Government of the Gambia.

The Gambian Government officially announced that three persons lost their lives during these events and photographs of the deceased have circulated as proof. The photographs raise questions about the circumstances that lead to their death.

Family members of the deceased persons have not been able to see and retrieve the bodies of their relatives, and therefore could not conduct any proper medical examination and autopsy of the bodies, or the traditional burial rites and ceremonies. The morgue has remained under heavy armed guard and family members were not allowed in. There is no available information on whether official autopsies have been carried out on the bodies of the deceased or whether appropriate investigations were launched into the circumstances of their deaths.

Following the attempted coup, at least thirty persons, including family members of alleged plotters and a child, have been arrested. Their whereabouts have not been confirmed officially but unofficial reports indicate that they are held incommunicado in unofficial places of detention, amongst others at the

headquarters of the National Intelligence Agency (NIA), and that several of them have been subjected to torture. According to witnesses' reports, some were abducted by men in plain clothes who drove in unmarked cars with tinted windows, and identified themselves as government agents. Many others were subject to random house searches by government agents or were questioned by officers in the streets. Around ten individuals have been released. Family members who went to the NIA to ask about those arrested were threatened with enforced disappearance if they continued their search.

Serious concern is expressed about the circumstances that led to the death of the three alleged plotters during the Government's response to the 30 December attempted coup and that they may have been the result of excessive use of force by law enforcement officials assigned to counter the attempted coup. Further concern is expressed regarding the reported lack of investigation on these deaths, the apparent lack of official autopsies of the bodies of the deceased, and the fact that family members were not allowed to receive the bodies of the deceased. Concern is also expressed about the reported series of arrests, illegal detentions and abductions by government agents following the attempted coup, including family members of alleged plotters.

While we do not wish to prejudge the accuracy of these allegations, they indicate a *prima facie* violation of the right of every individual to life and security, not to be arbitrarily deprived of his or her life, and not to be subject to torture as set forth in articles 3 of the Universal Declaration of Human Rights (UDHR),<sup>6</sup> (1) of the International Covenant on Civil and Political Rights (ICCPR) and 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) . We respectfully urge your Excellency's Government to consider all necessary measures to safeguard the rights of the persons detained and to ensure a prompt, thorough, independent and impartial investigation into the aforementioned deaths and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

In connection with the above alleged facts and concerns, please refer to the Reference to international law Annex attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the fate or whereabouts of all the individuals allegedly arrested by government agents in the context of the attempted coup d'état.

3. Please provide information on the legal grounds for the arrests and continued detention of any person arrested in connection with these events, including the family members of the alleged coup plotters, and the details of any charges brought against them and related judicial proceedings;
4. Please provide the details, and where available, the results of any investigation, and judicial or other inquiries carried out into the three deaths. If no inquiries have taken place, or if they have been inconclusive, please explain why. Please provide details of any autopsies carried out to the deceased bodies.
5. Should an investigation have been launched into the aforementioned deaths, please provide detailed information about the composition, procedures and status of the body in charge of such investigation and how it complies with international standards of impartiality, effectiveness and independence. Please confirm that these are being investigated exclusively by civil authorities, to the extent that human rights violations committed by security forces against civilians fall within the jurisdiction of the civil courts.
6. Please indicate whether compensation has been provided to the families and / or next of kin of the victims.

We would appreciate receiving a response within 60 days.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Ariel Dulitzky  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Christof Heyns  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, and while we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above, in particular articles 3 of the Universal Declaration of Human Rights (UDHR) and 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), acceded by Gambia on 22 march 1979, which respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life. The Human Rights Committee has said that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts, and to prevent arbitrary killing by their own security forces.

With regards to the use of force by law enforcement authorities, under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provides that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life (principle 9). Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles (principle 8). According to the Basic Principles and the Code of Conduct for Law Enforcement Officials, law enforcement officials may only use force when it is strictly necessary and only to the extent required for the performance of their duties. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated. Medical assistance should be provided as soon as possible when necessary.

States are under the obligation to investigate, prosecute, and punish all violations of the right to life, the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, urge States that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.

With regards to the alleged incommunicado detention, the absolute and non-derogable prohibition of torture and other ill-treatment has been codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Gambia signed 23 October 1985. Paragraph 8b of Human Rights Council Resolution 16/23, reminds States that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.”