

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL G/SO 214 (67-17) G/SO 214 (107-9)  
GMB 1/2013

16 July 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolution 16/4 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **new media act that suppresses freedom of opinion and expression on the Internet**.

According to the information received:

On 3 June 2013, the amendment to the Information and Communication Act was passed at the Gambian National Assembly. It is alleged that the amended Act imposes disproportionate and stiffer sanctions on persons using the Internet to criticize the government.

It is reported that the amended Act could impose maximum 15-year imprisonment and a fine of up to approximately 82,000 USD if found guilty of writing or spreading false information online including cartoons or satirical comedies. Prior to the amendment, the offence of spreading false information online imposed imprisonment of maximum six months and a fine of approximately 17 USD.

It is further reported that the Act not only imposes penalties for "Instigating violence against the government or public officials", it also targets persons who "caricature or make derogatory statements against officials" or "impersonate public officials".

Grave concerns are expressed with regard to the Information and Communication Act of 2013 as it severely hampers the fundamental right to freedom of opinion and

expression. Further concerns are expressed that this legislative development is part of a broader campaign aiming to gag dissenting voices against the Government.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

In this context, we further wish to refer to Human Rights Council resolution 20/8 adopted on 5 July 2012, which affirms that "the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice, in accordance with articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;" and calls upon all States to "promote and facilitate access to the Internet and international cooperation aimed at the development of media and information and communications facilities in all countries."

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights

and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- article 8, paragraph 1, which stipulates that everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs, and paragraph 2, which states that this includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

We wish to refer your Excellency's Government to resolution 22/6 adopted by the Human Rights Council on 21 March 2013, which calls upon all States to ensure "[t]hat provisions do not prevent public officials from being held accountable, and that penalties for defamation are limited in order to ensure proportionality and reparation commensurate to the harm done," (operative paragraph 11f) and "[d]issenting views may be expressed peacefully" (operative paragraph 11i).

Given the seriousness of the allegations, we would like to inform your Excellency's Government that we are considering issuing a press release in relation to the issues raised.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide information concerning the abovementioned amendment related to freedom of opinion and expression and its conformity with article 19 of the International Covenant on Civil and Political Rights.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the

above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders