



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers.

REFERENCE: UA
GMB 1/2014:

23 December 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 24/7, 25/18, and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and detention of **Mr. Sait Matty Jaw**, **Mr. Seth Yaw Kandeh**, and **Mr. Olufemi Ernle Titus**.

Mr. Sait Matty Jaw is a Gambian human rights defender, who works as a lecturer and researcher at the University of The Gambia. Mr. Jaw is a member of the International Youth Council, a civil society organization founded at the Youth Assembly at the United Nations in 2007. He is also well-known for his work as a community mobilizer and facilitator, focusing on women's empowerment and policy advocacy.

According to the information received:

On 5 November 2014, Mr. Sait Matty Jaw was detained at the Gambian National Intelligence Agency headquarters with two other individuals, Mr. Seth Yaw Kandeh, a Ghanaian national, and Mr. Olufemi Ernle Titus, a Nigerian national; both employees of FACTS International of Ghana, a market research agency. The three men are believed to be detained as a result of their involvement with a Gallup poll designed to collect data on political governance and alleged corruption.

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His Excellency
Mr. Ousman Badjie
Ambassador
Permanent Representative
Permanent Mission of the Republic of Gambia to the United Nations Office in Geneva

without charge. However, Mr. Kandeh and Mr. Tituts continued to be held in detention. On 10 December 2014, the three men were arraigned and remanded by Magistrate [REDACTED] of Banjul Magistrates' Court. At that time they were officially charged with conspiracy to commit misdemeanour, failure to register a business, and two counts of disobedience of statutory duty in relation to preliminary work being done for the Gallup poll. All defendants pleaded not guilty as charged and were remanded in prison custody.

Bail for Mr. Jaw was set at 5 million dalasis (approx. USD 11,600) in property. This amount is reported to be disproportionate as it is grossly higher than usual standards. The three men were remanded to Mile II Prison pending their trial, which is scheduled for 23 December 2014. It is reported that if found guilty, these individuals face potentially significant jail time in Mile II Prison, known for its reported human rights violations including torture, inhumane conditions, and unlawful executions.

Grave concern is expressed about the alleged arbitrary arrest and detention of Messrs. Jaw, Kandeh and Titus, who are believed to be deprived of their liberty as a direct result of their peaceful and legitimate activities advocating for human rights in the Gambia. Concern is also expressed regarding the fairness of their trial.

While we do not wish to prejudice the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to these issues brought forth by the situation described above.

The allegations described above appear to be in contradiction of Messrs. Jaw, Kandeh and Titus right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of International Covenant on Civil and Political Rights (ICCPR), to which the Gambia acceded, on 22 March 1979. The allegations described above also appear to be in contradiction of the UN Basic Principles on the Independence of the Judiciary.

The allegations further seem to be in contravention with 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, also known as the United Nations Declaration on Human Rights Defenders, in particular articles 1, 2, 6, 8 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As 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 be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of Messrs. Jaw, Kandeh and Titus and explain how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please indicate what measures have been taken to ensure that human rights defenders, including civil society representatives, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind in The Gambia.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence 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.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers