

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

Ref.: AL GMB 3/2022  
(Please use this reference in your reply)

10 June 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 43/16 and 43/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning threats by public officials and unknown individuals against human rights defender Madi Jobarteh.

Mr. **Madi Jobarteh** is a human rights defender who has worked for over 20 years advocating for transparency and increased accountability in governance in the Gambia. Mr. Jobarteh has worked on a range of human rights issue in the country, including recent work on social inclusion and the rights of women and girls. Mr. Jobarteh previously spent one and a half years outside of The Gambia in 2016 – 2017, after he came under risk for his human rights work during a previous government administration.

According to the information received:

On 29 April 2022, Mr. Jobarteh received a letter from the lawyer of Minister of Lands, Regional Government and Religious Affairs Hon. Abba Sanyang threatening to sue Mr. Jobarteh for defamation if he did not apologise for and retract an article he wrote alleging the Minister allocated land to other Government officials and their families and friends. Mr. Jobarteh has reportedly responded that he stands by his claims and will refuse to retract the article or apologise.

On the eve of Eid al-Fitr, 2 May 2022, President of the Gambia, Mr. Adama Barrow verbally attacked Mr. Madi Jobarteh in a televised address before a meeting of Banjul Muslim Elders at the State house in the city of Banjul. He claimed that Mr. Jobarteh's criticism of the Government was made with the intention to incite violence and that his civil society work was aimed at "setting the country on fire". The President furthermore criticised media channels for giving him a platform to speak about his work.

Since the 2 May address, Mr. Jobarteh has reportedly been receiving multiple threats online from unknown individuals. Some threaten to kill him or expel him from the country or contain messages that would contain similar messages to the one espoused by the President, for example, that he is opposed to "peace and progress" in the Gambia. At the time of writing, Mr. Jobarteh has not reported the incidents to the police.

Without prejudging the accuracy of the information, we wish to express our concern with respect to the remarks made by President Adama Barrow about human rights defender Madi Jobarteh. We are particularly concerned that the comments made by the President appear to have sparked more violent reactions from other members of society, and may put Mr. Jobarteh's life in danger. Stigmatising statements from public officials can be seen to legitimise attacks against human rights defenders and other civil society members. The criticism of the media's reporting on Mr. Jobarteh's work would be a dangerous attack on freedom of expression in The Gambia by the leader of the country. We fear that such intimidation for the legitimate and peaceful defence of human rights may put Mr. Jobarteh's physical integrity at risk may have a chilling effect on civil society and the media more broadly.

We are furthermore concerned by the legal action being threatened by Hon. Abba Sanyanh against Mr. Jobarteh for his work exposing alleged corruption in Government. We remind your Excellency's Government that criminal defamation laws, particularly those that accommodate public officials bringing defamation lawsuits against criticism of their activities in public office, are detrimental to freedom of expression and should be revoked or revised. Criminal law should only be used against speech only in very exceptional and most egregious circumstances of incitement to violence, hatred or discrimination.

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

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the measures in place in The Gambia to ensure that defamation laws are not misused against speech that is protected under international law, including speech that is critical of public office holders.
3. Please provide information on measures in place to ensure that human rights defenders can carry out their work in The Gambia without fear of retaliation or threats from State or non-State actors.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

## **Annex**

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

In connection with above alleged facts and concerns, we wish to refer to article 19 of the International Covenant on Civil and Political Rights, acceded to by The Gambia on 22 March 1979, which provides the right to freedom of opinion and expression. As per article 19(2), the freedom of expression includes the “right to seek, receive and impart information and ideas of all kind, regardless of frontiers either orally, in writing or in print, in the form of art, or through any other media of his choice”. Intimidation or retaliation of any kind against a person for holding or expressing an opinion, such as an opinion critical of the government, is a violation of article 19(1).

In this connection, we also recall that according to the Human Rights Committee in its General Comment no. 34, defamation laws must be crafted with care to ensure their compliance with article

19(3) of the ICCPR and that they do not serve to stifle freedom of opinion and expression, and that a public interest in the subject matter of the criticism should be recognised as a defence. We wish to also recall that according to Committee, States parties should take care to avoid excessively punitive measures and penalties in relation to defamation laws, and that States parties should consider the decriminalisation of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases.

We would 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

We also wish to refer to articles 6(c), 9 and 12, which state that everyone has the right, individually and in association with others, to study, discuss, form or hold opinions on the observance of all human rights and fundamental freedoms and to draw public attention to these matters; to benefit from an effective remedy and be protected in the event of the violation of these rights; and to participate in peaceful activities against violations of human rights and fundamental freedoms.