

Human Rights Defenders in The Gambia By Lydia Hanson

The Gambia's treatment of Human Rights Defenders (HRDs) has improved in the last five years under President Barrow, but despite promising engagement in multilateral and national human rights institutions, the situation on the ground and the legal infrastructure of the Gambia present dangerous situations for HRDs.

In 2016, the Gambia experienced its first transition of power in twenty-two years. Adama Barrow won the presidential election, though former president Yahya Jammeh refused to concede power until a military intervention by ECOWAS. This was in keeping with his interactions with HRDs, as under his rule, HRDs faced severe punishments, including arbitrary arrests, disappearances, killings, and forced exile. The new government has created an official commission to look into the corruption and abuses by Jammeh's regime, including crimes against HRDs.

The new government is more friendly towards HRDs and has improved their circumstances in some ways; however, there are still obstacles and a growing number of arrests and detentions of opposition members and those who challenge government action.

Demonstrating a more amenable stance on human rights and environmental issues than his predecessor, President Barrow and the nation are engaged in a number of institutions dedicated to these issues. There is a newly established National Human Rights Institution in the Gambia to examine human rights issues within the country. There is also a coalition of Human Rights Defenders in the country. The Gambia has also ratified the African Court on Human and People's Rights Protocol and has also made a declaration that grants an individual or non-governmental organization with observer status that ability to submit an application to the court.

The African Centre for Democracy and Human Rights Studies in the Gambia is part of HRCnet, which is an organization that was established in 2006 to enhance NGO engagement with the United Nations Human Rights Council, enhance the Human Rights Council's impact on the ground, and engage the members to work as a network. In 2017, the National Human Rights Commission Act passed; and finally, the Gambia is a member of the African Union and has ratified the protocol for the African Court.

However, the situation on the ground for HRDs is still often dangerous and their roles are still misunderstood by society and the government. And many laws are still on the books which support the violence against these HRDs. While the Gambian Constitution grants freedom of assembly, the Public Order Act enacted by former President Jammeh is still in place. This law requires police permission to assemble and was used by the previous government to prevent protests. In 2018, the Supreme Court also upheld sedition laws. Additionally, the Constitution allows rights to be derogated in states of emergency, which are declared by the state. The Criminal Code section 59 allows police to arrest HRDs without warrants if they are accused of inciting violence. The Criminal Code was used to justify a charge against HRD Madi Jobarteh in June 2020 for "false information and broadcasting" because of an interview he gave at a protest. Although the charges were dropped, Jobarteh was informed he was under governmental surveillance.

Non-governmental organizations working on environmental issues have also reported that they have continued to be targets for security forces. In 2018, HRDs protesting the dumping of waste in the sea by a corporation were detained; and in June 2018 in Faraba Banta, a smaller town, armed policeman opened fire on protestors protesting a sand mining contract on which the

community had not been consulted. A commission of inquiry that investigated the tragedy recommended that the perpetrators be brought to justice, but the President pardoned them.

As so much of the targeting of HRDs in the Gambia comes from the government itself or government agents, legislation and policy must be altered. The Criminal Code and Gambian Constitutions must be amended so as to better support HRDs and their work. The Public Order Act, at least the parts limiting freedom to assembly, must be repealed. And finally, new legislation must be adopted and implemented that should focus specifically on the protection of HRDs.