

ACHPR/Res. 360(LIX) 2016: Resolution on the Human Rights Situation in the Islamic Republic of The Gambia

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 59th Ordinary Session from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind that the Islamic Republic of the Gambia is a State Party to the African Charter and a signatory to the African Charter on Democracy, Elections and Governance;

Recalling the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa; Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa; Declaration of Principles on Freedom of Expression in Africa; Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa; and General Comment No. 3 on the African Charter on Human and Peoples' Rights on the Right to Life;

Further recalling its resolutions ACHPR/Res.5 (XI) 92 on the Right to Freedom of Association; ACHPR/Res.281 (LV) 14 on the Right to Peaceful Demonstration; and ACHPR/Res.331 (XIX) 16 on Elections in Africa;

Bearing in mind the Declaration of Principles of Freedom of Expression in Africa Principles I (2) which provides that "everyone shall have an equal opportunity to exercise the right to freedom of expression and to access information without discrimination" and Principle II (2) which also provides that "any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary in a democratic society";

Reaffirming the fundamental importance of freedom of information, expression and association of individuals as a cornerstone of democracy, particularly during elections and, as a means of ensuring respect for all human rights and freedoms;

Concerned by the three-year imprisonment of opposition party members for protesting against election reforms introduced by the Election Amendment Act of 2015;

Alarmed by the deaths of Ebrima Solo Sandeng on 15 May 2016 and Ebrima Solo Krummah on 20 August 2016, National Organising Secretary and Member of the

United Democratic Party (UDP) respectively, following their arrest and detention by the police for demonstrating against these electoral reforms;

Deeply concerned by allegations of torture and ill-treatment of the detained opposition members as well as sexual assault of detained women;

Further concerned by the allegations that detained persons in need of medical care denied the medical attention and family visits;

Disturbed by Government restrictions on social media and certain sites of the internet;

The Commission:

1. *Condemns* all acts of excessive and disproportionate use of force against protestors, sexual assault of women detainees and torture and other ill-treatment of detainees;
2. *Condemns* unjustified restrictions on the right of freedom of expression and access to the internet by the Government;
3. *Calls on* the Government of Islamic Republic of The Gambia to:
 0. Ensure that the elections are free, fair and peaceful;
 - a. Pardon all persons sentenced because of demonstrating to oppose election reforms of the Election Amendment Act;
 - b. Refrain from the use of excessive and disproportionate force against protestors and generally take necessary measures to ensure the security and safety of its population;
 - c. Release the report of the investigation into the death of Ebrima Solo Sandeng if it has been concluded;
 - d. Carry out prompt and impartial investigations into the death of Ebrima Solo Krummah while in detention and make public the report of the investigating body;
 - e. Carry out prompt and impartial investigations into the allegations of torture, ill- treatment and sexual assault of detainees and ensure that those responsible are held accountable and subjected to appropriate sanctions reflecting the gravity of the offences, in accordance with the relevant international and regional standards;
 - f. Ensure immediate provision of medical assistance for detainees and prisoners in need of it and allow visits by their families and legal representatives;
 - g. Immediately lift all restrictions to internet and social media networks it has imposed; and
 - h. Ensure that contesting parties and candidates of the elections are given equitable access to state controlled media.

o.Calls on leaders and members of opposition parties, other stakeholders and the general population to refrain from violence and maintain peace during and after the elections.

**Done in Banjul, Islamic Republic of The Gambia, on 4 November
2016**