PRESS STATEMENT - GAMBIA BAR ASSOCIATION

The Gambia Bar Association condemns in the strongest possible terms the announcement by outgoing President Yahya Jammeh made on Friday the 9th December 2016 wherein he declared the 1st December 2016 elections null and void.

The said statement of the outgoing President contravenes the provisions of Section 49 of the 1997 Constitution of The Republic of The Gambia, and in our considered opinion is an abrogation of the Constitution and an attempt to subvert the legitimate decision of the People of The Gambia. Further, this action is tantamount to treason under the provisions of Section 6(1) of the Constitution.

We reject the subsequent statement by the APRC that it intends to file an election petition against the results published by the Independent Electoral Commission. The rhetoric of the APRC further compounds the illegitimate and destabilising actions of the outgoing President.

While under normal circumstances the right to petition against election results does exist, the situation in The Gambia now, is that there is no constituted panel of the Supreme Court. The GBA notes with concern that since May 2015, there has not been a sitting Supreme Court session due to the absence of a panel. This is despite several reminders issued to the Chief Justice by members of the Bar. In the circumstance; it would be against the principles of natural justice for the outgoing President to appoint Supreme Court Judges to hear a Petition filed by him or on his behalf. That would be tantamount to one being a Judge in his own cause considering that the outgoing President has already pre-empted the outcome of Court process by declaring the election result as a nullity. It is the position of the GBA that an outgoing President must not be appointing Judges who should have been appointed since 2015.

In the present circumstances, any Supreme Court empanelled by the outgoing President Jammeh for the purposes of hearing his election petition would be fundamentally tainted.

The Gambia Bar Association therefore states that there is no legitimate legal mechanism available in The Gambia to hear and determine the election petition filed by the outgoing President Jammeh or on his behalf. Under the circumstances we call on outgoing President Jammeh to respect the outcome of the December 2016 elections and immediately hand over power peacefully to President Elect Adama Barrow in line with the sovereign will of the people of The Gambia.
Any other course of action will jeopardise the peace and stability of our country.

We also call on other professional bodies, unions, civil society organisations, the civil and public service and the security forces to respect the will of the people and pledge their allegiance to the President Elect.

We also call on the African Commission on Human and Peoples’ Rights headquartered here in The Gambia to strongly urge the outgoing President to respect the outcome of the just concluded Presidential elections and to further respect the relevant regional and international human rights instruments binding on The Gambia.

We ask all members of the Bar Association and the staff of the judiciary in particular to boycott the courts in solidarity with the people until such time as the Government of outgoing President Jammeh accepts the result of these elections and hand over Power to the President Elect.