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Freedom on the Net 2017 - the Gambia

Publisher [Freedom House](#)

Publication Date 14 November 2017

Cite as Freedom House, *Freedom on the Net 2017 - the Gambia*, 14 November 2017, available at: <http://www.refworld.org/docid/5a547d01a.html> [accessed 15 March 2018]

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Country:	the Gambia
Year:	2017
Status:	Not Free
Total Score:	67 (0 = Best, 100 = Worst)
Obstacles to Access:	20 (0 = Best, 25 = Worst)
Limits on Content:	20 (0 = Best, 35 = Worst)
Violations of User Rights:	27 (0 = Best, 40 = Worst)
Population:	2.0 million
Internet Penetration:	18.5 percent
Social Media/ICT Apps Blocked:	Yes
Political/Social Content Blocked:	Yes
Bloggers/ICT Users Arrested:	Yes
Press Freedom Status:	Not Free

Key Developments, June 2016-May 2017

- The new government promised to protect human rights, including online (see **Introduction**).
- On the eve of presidential elections in December 2016, the authorities shut down the entire internet and mobile networks across the country, supposedly to prevent the spread of false information (see **Restrictions on Connectivity**).
- Popular messaging apps WhatsApp, Viber, and Skype were blocked for over five months in the lead-up to the elections (see **Blocking and Filtering**).
- In a positive step, the majority of blocked websites and apps became accessible when the new president assumed office in late January 2017, though gambling websites and pornography remain blocked (see **Blocking and Filtering**).
- Several online activists were detained without charge for days and subject to ill-treatment in prison prior to elections; at least one was briefly detained for criticizing the new president online (see **Prosecutions; and Intimidation and Violence**).
- Government and newspaper websites were hacked and remained offline for days during an impasse when the former president refused to concede the election (see **Technical Attacks**).

Introduction:

Internet freedom remained tenuous in The Gambia in the past year as internet users faced increasing restrictions and censorship in the lead-up to presidential elections in December 2016. In a surprise event, the elections brought in new leadership and some improvements in internet freedom for the first time in over two decades.

Under the authoritarian former President Yahya Jammeh, who ruled from 1994 until his electoral defeat in December 2016, political rights and civil liberties were severely restricted in The Gambia, with conditions for press freedom and freedom of expression particularly poor, both online and off. Repression of critical voices intensified as the country geared up for the December elections, particularly following unprecedented antigovernment protests in April 2016 that were sparked by online activism. In August, the authorities blocked popular communications platforms WhatsApp, Viber, IMO, and Skype, probably in response to the growing reliance of opposition groups and candidates on WhatsApp group messaging. Tech-savvy Gambians still accessed the blocked apps via virtual private networks (VPNs), which may have prompted the authorities to order ISPs to shut down all internet services, international calls, and SMS messaging on the eve of the elections. The internet blackout lasted for over 48 hours.

Despite his attempts to suppress online opposition, Gambians voted Jammeh out of office. An impasse ensued, with Jammeh initially conceding electoral defeat but later changing his mind and refusing to step down. In a rare and courageous outburst of dissent, protesters organized online and offline using the #GambiaHasDecided hashtag to demand Jammeh's concession, but were met with a brutal crackdown. ECOWAS, a regional force representing 15 West African states, eventually forced Jammeh out, allowing the democratically elected coalition government under President Adama Barrow to take power in January 2017. Barrow promised to restore democracy and fundamental freedoms, including freedom of expression and press freedom.^[1]

Since then, conditions for internet and press freedom have improved significantly. The majority of blocked websites and apps became accessible shortly after Barrow was inaugurated, with only gambling websites and pornography remaining blocked. Nonetheless, internet freedom remains at risk. The new administration has announced some intentions of reforming draconian laws enacted under the former regime, but many are still on the books. In a first step, sedition was declared

unconstitutional in June. Despite these incremental improvements, Barrow has shown some signs of following his predecessor's repressive footsteps: One internet user, Fatou Badjie, was arrested in February 2017 for allegedly insulting the new president, leading Gambians to stay vigilant and proactive in the fight for democratic reforms and internet freedom.

Obstacles to Access:

On the eve of presidential elections in December 2016, the authorities ordered ISPs to shut down internet services, international calls, and SMS messaging across the country, purportedly to disrupt the spread of false information, but in practice impeding the counting of election results.

Availability and Ease of Access

Access to the internet in The Gambia expanded marginally in the past year, growing from a penetration rate of 17 percent in 2015 to 18 percent in 2016, according to the International Telecommunication Union (ITU).^[2] Flagging growth in internet access may be due to decreasing activity in regional internet cafe and telecentre hubs operated by the public telecommunications company, Gambia Telecommunications Company Limited (Gamtel), due to declining government funding.^[3] Meanwhile, connection speeds are generally very slow, averaging 2.3 Mbps compared to a global average of 7.0 Mbps in 2017, according to Akamai's *State of the Internet* report.

The Gambia has one of the highest mobile phone penetrations in Africa, with a rate of 140 percent in 2016, up from 131 percent in 2015, and most Gambians access the internet via mobile devices, with less than 2 percent of users subscribing to fixed-broadband services.^[4]

Cost remains one of the primary hindrances to internet access in The Gambia, where up to 48 percent of individuals live in poverty.^[5] The introduction of 3G wireless internet services for mobile has made internet access more accessible, albeit only for a small subset of the population who can afford the data packages. The Alliance for an Affordable Internet (A4AI) ranked The Gambia 38th among 58 countries assessed for affordability in 2017.^[6]

Limited access to telecommunications services in The Gambia is compounded by a significant urban-rural divide as well as interruptions to the power supply. In general, rural areas suffer from poor or virtually nonexistent infrastructure, a lack of affordable electricity, and frequent power cuts.^[7] In addition, network coverage of rural areas has not been an investment priority for most service providers,^[8] making rural provinces in The Gambia some of the most disconnected regions of the world.^[9] Radio still remains the principal mass medium through which most Gambians stay informed.

Restrictions on Connectivity

The Gambian government's control over the telecommunications infrastructure enables it to restrict access to the internet and mobile phone services with little to no oversight or transparency. This control was exerted on the eve of presidential elections in December 2016, when the authorities ordered ISPs to shut down internet services, international calls, and SMS messaging across the country, ostensibly to disrupt the spread of false information, but actually disrupting the process of vote counting and election monitoring.^[10] Lasting for over 48 hours, the communications blackout failed to guarantee the reelection of long time ruler Yahya Jammeh who had overseen the shutdown.^[11]

Earlier in 2016, internet shutdowns that lasted for hours at a time were reported in the Greater Banjul Area during rare antigovernment protests.^[12] Network slowdowns were also reported throughout 2016, leading to strong suspicions of government throttling.

The state-owned telecom company, Gamtel, owns the fiber-optic cable that runs across the country and controls the country's connection to the international internet via the ACE (Africa Coast to Europe) submarine cable system, allowing private telecoms to lease access to the gateway for data services.^[13] In a positive step, the government began liberalizing gateway services in May 2013 by granting international data transmission licenses to private telecom operators.^[14] Details are vague as to how many new licenses had been issued by the end of 2016, but sources said no more than five.^[15] The government also launched the country's first internet exchange point (IXP) in July 2014 to boost speed, security, and affordability of internet services across the country.^[16] As of 2017, no issues of government control over the new IXP have been reported.

ICT Market

The Gambia's information and communication technology (ICT) market is relatively small, with four ISPs – state-owned Gamtel and privately-owned QuantumNet, Netpage, and Airtip^[17] – and four mobile phone providers, Gamtel's subsidiary Gamcel, and privately-owned Qcell, Africell, and Comium.^[18] All mobile providers offer 2G and 3G data service.

The telecommunications sector is not well regulated, and like many other sectors, businesses must contend with inefficient bureaucracies coupled with nepotistic and preferential practices by government officials. Top regime officials often have working relationships with business entities and investors "across all sectors of the economy," according to local observers.^[19] Registration for internet and mobile phone service providers is an onerous and expensive process with numerous requirements to fulfill. In addition, corruption among the authorities is rife.^[20]

Internet cafe operators must also contend with regulatory obstacles. For example, under an April 2013 directive that remains active in 2017, cybercafe owners are required to register with the regulatory agency for an operating license (in addition to a requisite business license) through an application that requires details of the ISP, the number of computers installed, and services provided.^[21] Cybercafes must renew their licenses every year and pay annual renewal fees of USD 20 to the regulatory body or face closure.^[22] In September 2013, the regulator issued further guidelines that dictated specific requirements on the physical layout of cybercafes and the signs they must display.^[23] Since the regulations came into effect, dozens of cafes have closed down, likely as a result of the economic obstacles imposed by the strict regulations as well as increasing mobile broadband access.^[24]

Regulatory Bodies

The telecommunications sector is regulated under the Public Utilities Regulatory Authority Act 2001, which established the Public Utilities Regulatory Authority (PURA) in 2004 to regulate the activities of telecom service providers and other public utilities.^[25] Consumer activists have described PURA as an ineffective regulator that seems more concerned about its image than the interests of consumers.^[26] PURA lacks the expertise, equipment, and enforcement power to carry out its mandate.^[27] Furthermore, the composition of the body does not encourage independence. The president appoints the governing board on the recommendation of the Minister of Finance and Economic Affairs.^[28] The new government inaugurated in January 2017 had not signalled any intent to reform PURA by mid-2017.

Limits on Content:

Popular communications platforms such as WhatsApp, Viber, and Skype were blocked in August 2016, joining numerous independent news and opposition websites that had been blocked for years. In a positive step, the majority of blocked websites and apps became accessible when the new president assumed office in late January 2017, though gambling websites and pornography remain blocked. Since the election, the online news and information landscape has begun to represent a growing diversity of political and social viewpoints, as the highly restrictive environment for bloggers and internet users that existed under Jammeh has relaxed.

Blocking and Filtering

Under the former regime, over 20 webpages were blocked,^[29] many of which were independent news and opposition websites known for their criticism of the government,^[30] such as *Gambia Echo*, *Hello Gambia*, *Jollof News*, *Gainako*, and *Freedom Newspaper*.^[31] Most of the blocked outlets were based abroad and operated by exiled Gambian activists and journalists.

In August 2016, the authorities blocked popular communications platforms WhatsApp, Viber, IMO, and Skype,^[32] which analysts believe was in response to the growing reliance on WhatsApp group messaging among opposition groups and candidates in advance of the December elections.^[33] Tech-savvy Gambians were able to access the blocked apps via virtual private networks (VPNs)^[34] and other proxy servers,^[35] which may have prompted the authorities to shut down the entire internet on the eve of the elections (see Restrictions on Connectivity).

In a positive step, the majority of blocked websites and apps became accessible when the new president assumed office in late January 2017, though gambling websites and pornography remain blocked.^[36]

Nonetheless, the apparatus for blocking content remains in place as state control over the country's dominant telecommunications provider, Gamtel, gives the authorities the ability to restrict access to internet content without oversight. Experts believe that the former government blocked specific internet protocol (IP) addresses and domain names at the level of the internet gateway.^[37] Procedures for blocking content also remain lacking in transparency. According to former officials, the Jammeh government intentionally avoided issuing written orders for website blockings and internet shutdowns, to maintain a degree of plausible deniability.^[38]

Content Removal

Content removal issues had not been reported under the new administration as of mid-2017.

Under the former government, websites were routinely required to take down certain content, though the extent of content affected was unknown. Observers often noted a trend of online content "disappearances," supported by accounts from journalists and editors. A former reporter speaking anonymously said that he often received orders from government officials to take down select content from news websites, particularly "politically sensitive" content.^[39] Editors reported receiving threatening phone calls regarding online content, while others experienced "visits" from officials at their offices or homes.^[40] In general, stories that risked catching the attention of security officials were likely to be removed, either through self-imposed post-publication censorship, or as a result of unofficial take down orders from government officials.

During the political impasse following President Jammeh's rejection of the election results in December 2016, several online articles mysteriously disappeared from the website of the

progovernment newspaper, *Daily Observer*, including articles that described leading security officials pledging loyalty to the president-elect. The *Daily Observer* website was also among a host of websites that suffered technical attacks following the elections (see Technical Attacks).

Media, Diversity and Content Manipulation

Since the election, the online news and information landscape has begun to represent a growing diversity of political and social viewpoints, as the highly restrictive environment for bloggers and internet users that existed under Jammeh's era has relaxed. Bloggers and internet users are now posting content more openly, while independent journalists and netizens working to push the boundaries of free expression from within the country have re-emerged after decades of severe self-censorship or exile.^[41] The public sphere has become notably more pluralistic compared to the previous era.

Nonetheless, some local activists, particularly sympathizers of the former president, post critical content anonymously to evade potential repercussions given the unchanged regulatory environment.^[42] In addition, a degree of self-censorship continues to exist as a result of over two decades of repressive rule. Despite decreased restrictions on internet freedom under the new president, economic sustainability for independent online media outlets remains a serious challenge. Under the previous administration, private businesses avoided advertising with critical outlets out of fear of government reprisals.^[43]

There is no concrete evidence that the authorities under the current and former governments employ progovernment commentators to manipulate online content, though trolls are present in many online forums and post commentary that appears intended to distort the news and information landscape. In the recent past, the former government had increased its efforts to co-opt prominent anti-Jammeh activists, incentivizing them to support the regime through handsome gifts from the president himself.^[44] Under the new administration, some online exchanges between supporters of different political groups have devolved into tribal feuds leading to abuse and insults.

Digital Activism

Digital activism efforts during the previous presidency were usually small and unsuccessful, mainly due to heavy-handed government repression of criticism and dissent. Most efforts were led by the large diaspora community that was aligned against Jammeh's repressive regime.

Following the December 2016 elections when then-President Jammeh rejected his defeat and demanded fresh polls, citizens flocked online to renounce the incumbent using the hashtag #GambiaHasDecided. The unprecedented online protests galvanized citizens to take their activism offline, as represented by people wearing T-shirts and holding banners bearing the popular hashtag. Observers believe the widespread online and associated offline activism played a key role in the general efforts to force Jammeh to accept the democratic election results and step down. A civil society group that takes its name from the #GambiaHasDecided hashtag continues to advocate for a broader democratic space.

Violations of User Rights

Since coming into power in January 2017, the new administration has announced general legal reforms aimed at strengthening individual freedoms. Despite improvements in internet freedom, one internet user, Fatou Badjie, was arrested in February 2017 for allegedly insulting the new president. Government and opposition websites as well as critical online news outlets experienced debilitating technical attacks during the election period.

Legal Environment

The 1997 constitution guarantees freedom of speech and press freedom, though fundamental freedoms were severely restricted in practice under the previous administration. Former President Jammeh was known for his utter disregard for constitutional rights, once stating publicly that he would "not compromise or sacrifice the peace, security, stability, dignity, and the well-being of Gambians for the sake of freedom of expression."^[45]

Since coming into power in January 2017, the new administration has announced general legal reforms aimed at strengthening individual freedoms. In June, the new attorney general and minister for justice conceded at the Constitutional Court that sedition – a law that had been frequently used to silent journalists and critics under the former regime – was unconstitutional.^[46]

However, officials stalled on reforms to a false news law. The spread of false news online remains a crime under the Information and Communication Act 2013 (ICA), which punishes people for using the internet to criticize, impersonate, or spread false news about public officials by up to 15 years in prison, fines of up to GMD 3 million (about US\$100,000), or both.^[47] The former government introduced the law in response to online activism and the growing influence of critical news outlets, particularly those overseas, according to then-blocked news outlet *Gainako*.^[48] Analysts believe the new government may repeal ICA in its entirety in the near future.^[49]

Prosecutions and Detentions for Online Activities

Under the former regime, arrests and prosecutions of online journalists and ICT users for their online activities were common, and users were often prosecuted on "false information" charges under the Information and Communication Act. When then-President Jammeh lost the elections in the December 2016 polls, his government became more aggressive in its clampdown on citizens who used social media and communications platforms to mobilize and criticize the government. Several people who were associated with the #GambiaHasDecided campaign were detained for their role in spreading news about the online campaign. Many were held without charge beyond the legal limit of 72 hours. Those arrested reported being beaten while in detention (see Intimidation and Violence),^[50] while several others fled to neighboring Senegal.^[51]

Despite improvements in internet freedom under the new government, one internet user, Fatou Badjie, was arrested in February 2017 for allegedly insulting the new president, Adama Barrow. Though she was eventually freed and the charges against her were dropped,^[52] she was the first person to face prosecution under the new government on issues relating to freedom of expression.^[53]

Surveillance, Privacy, and Anonymity

Unchecked surveillance of ICTs remains a concern in The Gambia due to the legal and technological frameworks put in place by the former regime. Article 138 of the 2009 Information and Communications Act gives sweeping powers to national security agencies and investigative authorities to monitor, intercept, and store communications in unspecified circumstances while also giving the regulator, PURA, the authority to "intrude [sic] communication for surveillance purposes," all without judicial oversight.^[54] In addition, the law requires service providers to "implement the capability to allow authorized interception of communications." Article 141 also imposes onerous data retention requirements, obliging service providers to retain metadata for three years.

Restrictions on anonymous communication through SIM card and local domain name registration requirements also still exist.^[55] The latter is managed by the regulatory authority.^[56] Africell, one of the largest GSM companies, recently introduced mobile payment services for users with registered SIM cards.^[5]

Observers believe the former government proactively monitored and intercepted citizens' communications, particularly the communications of activists and independent journalists who were perceived as threats to "national security."^[58] Intercepted phone and email communications were often used as evidence in trials against government critics. However, the scope of the government's technical surveillance capabilities remains unknown, and it is uncertain whether the new government has continued to carry out the same surveillance practices.

The future of a cybersecurity strategy that could undermine internet freedom is also unclear. In December 2015, the former government unveiled plans to set up a new National Cyber Security Strategy that aimed to establish a Computer Incidence Reporting Team to monitor cyber threats.^[59] Preliminary documents indicated that the strategy addressed personal data protection, electronic transactions, electronic records and signatures, and computer misuse and cybercrime,^[60] all of which are currently regulated by Information Communication Act 2009 and provisions in the Criminal Procedure Act. Observers at the time worried that the increased securitization of the internet would have negative repercussions on freedom of expression online. Given the new administration's challenge of reforming a fragile economy and institutions ruled by a dictatorship for over two decades,^[61] issues such as surveillance and cybersecurity may be relegated to the back seat.

Intimidation and Violence

Gambian journalists have faced high levels of violence for independent and critical reporting and for their online activities. During antigovernment protests in April 2016, online journalist Ebrima Janko Ceesay was among those arrested during the protests and was reportedly beaten and lost two teeth while in detention.^[62] Ceesay was released in June, but tragically died of heart failure in April 2017, which some observers attribute to his ill treatment while in prison.^[63]

Activists arrested during the December 2016 crackdown on activities relating to the #GambiaHasDecided hashtag also reported beatings while in detention.

Under the former regime, numerous media workers, bloggers, and online journalists fled the country as a result of the unsafe environment for independent voices. In a positive development, the departure of the former dictator led scores of online journalists and activists to return in 2017.

Technical Attacks

There were several reports of both government and opposition websites, as well as critical online news outlets, experiencing debilitating technical attacks during the election and subsequent political impasse in early 2017.^[64] A few websites that published election results indicating Jammeh's defeat were hacked to have the results removed, including sites run by a pro-Jammeh newspaper and the electoral commission.^[65] Numerous online journalists, bloggers, activists and internet users separately reported that their social media accounts had been hacked.^[66] Activists suspected that the Jammeh government initiated or supported the attacks in order to counter growing antigovernment sentiment online.^[67]

Notes: