

Freedom House

Freedom on the Net 2021 - The Gambia

Partly Free

53

/ 100

A [Obstacles to Access](#) 12 / 25B [Limits on Content](#) 22 / 35C [Violations of User Rights](#) 19 / 40

Last Year's Score & Status

49 / 100 Partly Free

Scores are based on a scale of 0 (least free) to 100 (most free)

Overview

The online environment has improved in the Gambia since 2017, when President Adama Barrow succeeded Yahya Jammeh, who ruled for more than two decades and oversaw a regime that overwhelmingly failed to protect political rights and civil liberties. Gambians now take to the internet to express views on many sensitive issues. Arrests and harassment of internet users for their online activity have steadily declined. However, the Barrow administration's crackdown on the Three Years Jotna (TYJ) protest movement, which mobilized after Barrow reneged on his promise to resign in January 2020, raised fears of a return to Jammeh-era repression.

Before the 2016 election, which resulted in a surprise victory for Barrow, Jammeh came to power through a bloodless coup in 1994. Fundamental freedoms, including the rights to free assembly, association, and expression, improved after Barrow took office, but the progress towards consolidating the rule of law remains slow. LGBT+ individuals face severe discrimination, and violence against women and petty crimes remain a serious problem.

Key Developments, June 1, 2020 - May 31, 2021

- Several brief nationwide connectivity disruptions were reported in early 2021, but such interruptions have declined in severity compared to previous years (see A1).
- The telecommunications regulator fined mobile provider Gamcel, a subsidiary of state-owned network Gamtel, for anti-competitive practices, a sign that the regulator may exercise its duties more fairly and independently (see A5).
- Internet users faced fewer physical attacks in retaliation for their online activities, a marked improvement from the Jammeh era (see C7).
- No cyberattacks against media sites or government institutions were reported during the coverage period (see C8).

A Obstacles to Access

A1 0-6 pts

Do infrastructural limitations restrict access to the internet or the speed and quality of internet connections? 2 / 6

Score Change: The score improved from 1 to 2 because short-term connectivity disruptions due to infrastructural issues were less severe, though they continued throughout the coverage period.

The country's internet penetration rate remains low, and a notable expansion in internet access that took place earlier in the decade has slowed.

Less than a quarter of the Gambia’s population has access to the internet. The Digital 2021 report identified the rate as 23.7 percent as of January 2021,¹ while the most recent statistics from the International Telecommunication Union (ITU) reported a rate of 19.8 percent as of 2017.² Flagging growth in internet access may be linked in part to reduced government funding for regional internet café and telecenter hubs operated by the public telecommunications company, Gambia Telecommunications Company Limited (Gamtel).³ Similarly, a state internet-gateway monopoly, which analysts believe directly impacts costs, persists.⁴

In late June 2019, Gamtel, in collaboration with Chinese technology firm Huawei, launched the National Broadband Network (NBN) initiative to expand internet speed and access across the country.⁵ Gamtel reportedly owes Gambian dalasi 1.25 billion (\$24.3 million) in loans for the project as of January 2021.⁶ While broadband installation is still ongoing, accessibility and speed remain a significant challenge. In 2020, the government approved a national broadband policy which aims to provide “at least 75 percent of homes to have affordable access to high speed internet connectivity by 2022,” defined as an upload and download rate of at least 5 Mbps.⁷

The Gambia has one of the highest mobile-phone penetration rates in Africa, standing at 141.2 percent in 2017, though one individual may have more than one subscription, and not all phone plans include data use.⁸ Nevertheless, most Gambians who access the internet do so via mobile devices, with less than 20 percent of users subscribing to fixed-line broadband services.⁹

The government launched the country’s first internet exchange point (IXP) in July 2014 to boost the speed and security of internet services across the country, though the IXP runs slowly.¹⁰

During the coverage period, the Gambia experienced several internet disruptions all of which were blamed on technical problems with the Africa Coast to Europe (ACE) undersea cable.¹¹ Between January and February 2021, the country saw at least four nationwide disruptions each lasting between two and eight hours.¹² Gambians expressed that the disruptions in early 2021 interrupted business, education, and other critical activities.¹³ The National Broadband Policy approved in January 2021 aims to identify an “alternative backup” to the ACE cable by the end of 2021.¹⁴

The Gambia saw two disruptions of at least two hours during the previous coverage period, attributed to technical problems with ACE cable in November 2019 and a malfunction in the South Atlantic Telecommunications 3/West African Submarine Cable (SAT-3/WASC) in January 2020.¹⁵ Moreover, there were other minor national disruptions in early 2019, which Gamtel attributed to “technical problems” and “data migration.”¹⁶ In November 2018, there was a major network shutdown in many parts of West Africa, including the Gambia.¹⁷ This regionwide shutdown lasted several hours and was attributed to technical problems around the ACE cable.

In June 2020, the government validated a series of policy documents as part of the “ICT for Development Policy 2018-2028,” which aims to increase access to the internet across the country and bolster the ICT sector.¹⁸

A2 0-3 pts

Is access to the internet prohibitively expensive or beyond the reach of certain segments of the population for geographical, social, or other reasons?

1
/
3

High cost remains a primary hindrance to internet access in the Gambia, where 48.6 percent of individuals live in poverty, according to 2015 World Bank data.¹⁹

The introduction of third- and fourth-generation (3G and 4G) mobile networks has made internet access more accessible, albeit only for a small subset of the population who can afford data packages. The IXP introduced in July 2014 (see A1) aimed to make internet services more affordable, but it remains unclear whether the IXP succeeded in doing so. Internet service providers (ISPs) generally sell data bundles. Since the COVID-19 pandemic began in March 2020, there are few monthly unlimited access packages available. Generally, prices range from 8 Gambian dalasi (15 cents) for 20 MB to 1,620 dalasi (\$31) for 13 GB of data.²⁰ Overall, the pandemic has pushed more people to resort to using the internet, especially for those working from home.²¹

Data from the World Bank and the International Monetary Fund show that up to 48 percent of the country’s almost 2 million people live in poverty. Changing rainfall patterns in the past several years have increased food insecurity from 5 to 8 percent according to the latest World Food Programme data.²² High levels of poverty and food insecurity limit access to the internet.²³

The COVID-19 pandemic brought increased demand for internet connectivity as schools transferred classes online and some workers connected from home, which in turn led to increased demand for lower data prices. For instance, an outcry followed the University of the Gambia’s decision to cancel a plan to offer free data to its students after a cost dispute with mobile service provider Africell in April 2020.²⁴ Some schools have redirected their budgets into providing high speed internet access open to communities during the pandemic.²⁵

Limited access to telecommunications services in the Gambia is compounded by a significant urban-rural divide, as well as by occasional 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.²⁶ In addition, network coverage of rural areas has not been an investment priority for most service providers.²⁷ The government has identified “closing the digital divide” as a goal of the NBN (see A1); as of June 2020, no progress was noted.²⁸ In March 2020, the government launched its Digital Terrestrial Transmission (DTT) infrastructure project, which aims to ensure the Gambia’s analog-to-digital transition.²⁹ DTT is expected to foster an increase in internet access nationwide.

In May 2019, the government announced the introduction of a new tax on GSM (global system for mobile communication) operators across the country.³⁰ Reports indicate that the levy, which took effect in June 2019, raised millions of dalasi for the government.³¹ In September 2019, the government proposed a new digital tax in a draft media services bill, but that proposal was eventually abandoned.³²

A3 0-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of restricting connectivity? 4 / 6

The Gambian government’s monopoly over the main telecommunications infrastructure enables it to restrict access to the internet and mobile phone services with little to no oversight or transparency. However, the current post-Jammeh government has not used these capabilities.

There were several brief nationwide connectivity interruptions in November 2019, January 2020, and early 2021 attributed to technical problems with undersea cables (see A1). The 2020 interruptions also overlapped with mass protests calling for President Barrow’s resignation, prompting speculation of government interference with internet connectivity.³³

Gamtel owns the fiber-optic cable that runs across the country and thus controls the country’s connection to the international internet via the ACE submarine cable system. The government began liberalizing gateway services in May 2013 by granting international data transmission licenses to private telecommunications operators.³⁴ Details are vague as to how many new licenses have been issued. The new administration has expressed willingness to further liberalize the sector but as of early 2021, the status quo remained.³⁵

The authorities last placed restrictions on connectivity on the eve of the 2016 presidential election. Ahead of the polls, authorities ordered ISPs to shut down internet services,³⁶ international calls, and short-message service (SMS) access across the country. This was ostensibly done to disrupt the spread of false information, but actually disrupted vote-counting and election-monitoring processes.³⁷ Lasting for over 48 hours, the communications blackout failed to guarantee the re-election of former president Jammeh, who oversaw the shutdown.³⁸

A4 0-6 pts

Are there legal, regulatory, or economic obstacles that restrict the diversity of service providers? 4 / 6

A state-owned and operated company, Gamtel, has a monopoly on the internet gateway, though it has granted other service providers permission to operate international data links.³⁹

The Gambia’s information and communication technologies (ICT) market is relatively small. There are at least four ISPs: the state-owned Gamtel, and privately owned QuantumNet, Netpage, and Airtip.⁴⁰ The country has four mobile service providers: Gamcel, a Gamtel subsidiary, and privately owned Qcell, Africell, and Comium.⁴¹ Africell is by far the largest mobile service provider, controlling over 60 percent of the market.⁴² All mobile service providers offer 2G, 3G, and in some places, 4G data service.

The Barrow administration has pledged to improve the regulatory environment and liberalize the telecommunications sector; while its approach represents a reprieve from the highly restrictive environment that characterized the Jammeh era, progress has been slow. As in many other sectors, businesses still must contend with inefficient bureaucracies coupled with nepotistic and preferential practices by government officials.⁴³ Registration for ISPs and mobile service providers remains an onerous and expensive process.⁴⁴

In February 2019, the *Voice* reported that the government had agreed to restructure Gamtel and Gamcel, such that Gamcel operates under independent management, and to divest shares in Gamcel.⁴⁵ No further developments were reported as of August 2021.

Internet cafés, which are much less common than in the past, contend with regulatory obstacles. Moreover, Gamtel has reduced funding to the internet cafés and telecenter hubs it operates (see A1).

A5 0-4 pts

Do national regulatory bodies that oversee service providers and digital technology fail to operate in a free, fair, and independent manner? 1 / 4

Score Change: The score improved from 0 to 1 after the Public Utilities Regulatory Authority fined Gamcel, subsidiary of the state-owned mobile network Gamtel, for anti-competitive practices, a sign that the regulator may exercise its duties more fairly and independently.

There are still serious concerns about the independence and efficacy of the Public Utilities Regulatory Authority (PURA), the Gambia’s telecommunications regulator. The telecommunications sector is regulated under the Public Utilities Regulatory Authority Act 2001, which established PURA in 2004 to regulate the activities of telecommunications providers and other public utilities.⁴⁶ However, PURA is largely an advisory body, and both its board of governors and managing director are appointed by the president on the recommendation of the finance minister⁴⁷—in effect undermining the body’s independence.

In a rare move, PURA fined Gamcel for manipulating international voice termination rates in September 2020. PURA ordered the network to pay a fine of dalasi 250,000 (\$4,856) and settle existing payment obligations of dalasi 11.4 million (\$221,451), along with compounding fines should Gamcel continue its anti-competitive practices. The regulator also recommended that the ICT ministry suspend the license of Gamcel. ⁴⁸

In May 2021, Yusupha Jobe was appointed as PURA’s director-general, replacing Momodou Jallow, who died in March. Jobe is reportedly the cousin of finance minister Mambray Njie, raising concerns of corruption.⁴⁹ Sources at the regulatory body said the entire department of legal affairs had resigned as of December 2020 in protest against favoritism, nepotism, and government interference.⁵⁰

PURA regulates not only telecommunications but also media licensing and content, sewage, electricity, and petroleum.⁵¹ This, experts say (and some PURA officials agree), is not tenable and stretches the authority’s limited resources. Ultimately, decisions on telecommunications are in the hands of the information minister.⁵² Despite persistent calls for reform, the government inaugurated in January 2017 has not signaled any intent to reform PURA. Though PURA’s mandate includes regulating media content, the Media Council of the Gambia, an industry self-regulatory body, was established in 2019 and has started hearing cases (see B6).

Nevertheless, the regulator appears to have carried out its functions more effectively in recent years, though some of its moves also threatened to infringe on consumers’ rights to privacy. In February 2017, PURA fined two mobile service providers—the privately owned Africell⁵³ and state-owned Gamcel—for failure to comply with rules on SIM card registration (see C4). Africell challenged the regulator’s decision at the civil division of the Gambia’s High Court, but the court ruled against the company. In the meantime, the vice president and three government ministers reportedly stepped in to resolve the issue between Africell and PURA, resulting in Africell’s eventual compliance with the SIM card registration requirements.⁵⁴

B Limits on Content

B1 0-6 pts

Does the state block or filter, or compel service providers to block or filter, internet content, particularly material that is protected by international human rights standards? 6 / 6

There have been no reports of blocking or filtering of websites or apps under the Barrow administration.

Over 20 sites were blocked under the former administration,⁵⁵ most of them independent news and opposition websites that were known for criticism of the government⁵⁶ and were operated from abroad by exiled Gambian activists and journalists. All blocked websites and apps, including those containing pornographic material, became accessible when President Barrow assumed office in January 2017.⁵⁷

Social media platforms and communications apps were unrestricted during the coverage period, but were frequently targeted under the previous administration. Apps were last restricted in August 2016, when the authorities blocked popular communications platforms WhatsApp, Viber, IMO, and Skype.⁵⁸ Analysts believed the blocks came in response to the growing reliance on WhatsApp group messaging among opposition groups and candidates in advance of the 2016 presidential election.⁵⁹ Tech-savvy Gambians were able to access the blocked apps via virtual private networks (VPNs)⁶⁰ and other proxy servers,⁶¹ which may have prompted the authorities to shut down the entire internet on the eve of the election (see A3).

B2 0-4 pts

**Do state or nonstate actors employ legal, administrative, or other means to force 2
publishers, content hosts, or digital platforms to delete content, particularly material that /
is protected by international human rights standards? 4**

While forced content deletion does not occur systematically, activists and journalists have reported receiving informal requests from senior government officials for content removal, including on the public broadcaster.[62](#)

No Gambian content was removed from Facebook products, Google products, or Twitter at the government’s request during the coverage period.[63](#) The government filed two requests to remove content from Google between January and June 2018, both of which were for defamation, neither of which were granted.[64](#)

In January 2020, the government suspended two private radio stations, Home Digital FM and King FM, along with their online services, on charges of incendiary messages and inciting violence,[65](#) and arrested four affiliated individuals (see C3). Both radio stations reported on protests calling for President Barrow’s resignation (see B8).[66](#) The government permitted the stations to reopen one month later following mediation led by the National Human Rights Commission (NHRC).[67](#) The Gambia Press Union (GPU) hired a lawyer to sue the government over what it termed “illegal” closures and arrests.[68](#) No lawsuit was filed as of August 2021.

In June 2017, the *Daily Observer*, one of the country’s oldest and most widely circulated national daily newspapers, was shut down by the Gambia Revenue Authority (GRA) for tax arrears accumulated over 17 years. The newspaper and its website then ceased operations.[69](#) The *Daily Observer* was widely considered to have been controlled by the Jammeh administration; there was speculation that its closure was politically motivated and came in response to stories critical of the new Barrow administration.

Under former president Jammeh, websites were routinely required to take down content. 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 takedown orders from government officials.

B3 0-4 pts

**Do restrictions on the internet and digital content lack transparency, proportionality to 2
the stated aims, or an independent appeals process? /
4**

Though online content is not systematically restricted in the Gambia, Gamtel remains state controlled, and has retained the ability to restrict access to internet content without oversight. There is no process through which site administrators can appeal content-restriction decisions.[70](#)

Experts believe that the former government blocked specific internet protocol (IP) addresses and domain names at the internet gateway level.[71](#) According to former officials, the Jammeh administration intentionally avoided issuing written orders for website blockings and internet shutdowns to maintain a degree of plausible deniability.[72](#)

The Media Council of the Gambia (MCG), a self-regulatory body tasked with arbitrating complaints about media reports, began adjudicating proceedings in May 2020.[73](#) The MCG has successfully arbitrated three cases, two of which relate to online content, as of January 2021.[74](#) The MCG was established by the GPU in December 2018 to regulate the media industry, including complaints about content, without relying on state intervention. The MCG’s formation is a result of collaborative efforts between government and civil society actors working for media reform under the Barrow administration.[75](#)

B4 0-4 pts

Do online journalists, commentators, and ordinary users practice self-censorship? 2 / 4

Activists, journalists, bloggers, and ordinary internet users have posted content more openly since the 2017 political transition, and a number of independent journalists have reemerged after decades of severe self-censorship or exile.[76](#)

However, some topics, including female genital mutilation (FGM) and issues affecting LGBT+ people, are still considered by many to be taboo, and are often discussed online only by pseudonymous users. Social media has seen a proliferation of hate speech in recent years.

Some local activists, particularly sympathizers of the former president, also post critical content anonymously to evade potential legal repercussions or other offline retaliation.[77](#) A handful of detentions under the new government, including one in 2017 involving claims of offline defamation against Barrow, reinforced citizens’ unease with speaking freely online (see C3).[78](#) Similarly, the

January 2020 arrest of four people and shutdown of two privately owned radio stations sent chilling effects on journalists and activists, as did the designation of the Three Years Jotna (TYJ) movement as a subversive group (see B8).

B5 0-4 pts

Are online sources of information controlled or manipulated by the government or other powerful actors to advance a particular political interest? 2 / 4

The current government seeks to promote its image through a variety of well-resourced press and public-relations offices, but there is no evidence it proactively employs progovernment trolls or bots, or otherwise seeks to covertly manipulate the information landscape.

The ruling National People’s Party (NPP) sponsors several media outlets with online presences,⁷⁹ and President Barrow has complained that other media outlets are biased against him. NPP officials have also sought to manipulate government announcements to reflect favorably on the NPP. For example, between November 2020 and May 2021, NPP operatives targeted various ministries to share communication projects that present the President’s success stories. These stories were later published by the party’s social media. ⁸⁰

The Barrow administration has also appointed information officers across almost all government ministries with the objective of disseminating information to the public.⁸¹ Interviews with senior government officials, who remained anonymous, indicate that the information officers are tasked with framing the government more positively in the media, particularly in state-owned media outlets, as part of a larger strategy to bolster President Barrow’s reelection bid in 2021.⁸² Many of these new information officers are former journalists, including some who were critical of the government.

During local council elections held in 2018, there was a noticeable increase in content manipulation across the political spectrum, including a proliferation of purportedly false news intended to harm particular candidates, apparently disseminated by opposing party loyalists. While there is no evidence linking these activities directly to political parties, they were largely spearheaded by party members and party youth groups, and detracted from the civility of the preelection environment, which saw some cases of political violence, particularly between members of the former ruling Alliance for Patriotic Reorientation and Construction (APRC) and the United Democratic Party (UDP).⁸³ WhatsApp groups were among the most common platforms for spreading misinformation, including distorted videos that smeared politicians.

B6 0-3 pts

Are there economic or regulatory constraints that negatively affect users’ ability to publish content online? 2 / 3

Small media businesses, especially online platforms, have expanded in recent years and have a growing impact on the media landscape.⁸⁴ Such operations are supported in part by advertising from government and private businesses; some programs offered by these online outlets, such as news and current events coverage, conferences, and talk shows, are similarly sponsored. Under the previous administration, private businesses avoided advertising with critical outlets for fear of government reprisal.⁸⁵ Nevertheless, economic sustainability for independent online media outlets remains a serious challenge.

As part of a COVID-19 relief package, parliament approved a government allocation of dalasi 15 million (\$291,383) to support the economic sustainability of media outlets. A multistakeholder committee including journalists was formed to coordinate the allocation and distribution of the approved funds to both private and public media outlets. As of December 2020, most media outlets have received their funds.⁸⁶

In November 2019, the cabinet approved a draft media services bill that would establish a media authority to license and regulate media companies. The draft bill would place onerous restrictions on media companies, including digital broadcasters and news sites, through fees and other restrictions.⁸⁷ Civil society organizations critiqued the bill, saying it targets the ability of journalists to do their work.⁸⁸ As of June 2021, the bill has not been presented to the parliament.

The government’s position on net neutrality provisions, which would ensure that ISPs treat internet traffic equally, remains unclear.

B7 0-4 pts

Does the online information landscape lack diversity and reliability? 3 / 4

The online information landscape has become increasingly pluralistic as the highly restrictive environment for bloggers and internet users that existed during the Jammeh era has eased. Online outlets and platforms including Kerr Fatou, the Fatu Network, Gambia Talents Promotion, and Eye Africa TV provide useful and diverse information to Gambians both within and outside the country.⁸⁹

These and other media outlets play an important role in Gambian society, especially in light of the ongoing work of the Truth, Reconciliation, and Reparations Commission (TRRC), which investigates Jammeh-era human rights abuses and violations, as well as that of the Constitutional Review Commission (CRC) and other bodies that address sensitive topics in the Gambia.[90](#)

B8 0-6 pts

Do conditions impede users' ability to mobilize, form communities, and campaign, 3 / 6 particularly on political and social issues?

Mobilization platforms and websites are freely available. Local digital activism efforts culminated in offline actions in the early days of the Barrow administration, but a January 2020 ban on an anti-Barrow protest movement and a coronavirus-related lockdown appear to have slowed online mobilization.

In January 2020, the government banned the TYJ movement, which mobilized protesters calling for Barrow's resignation after he reneged on a campaign promise to resign that month. The ban stated that no individual or entity should conduct any form of business with the organization and its members. Security forces arrested at least 137 protesters during the crackdown, including prominent journalists and movement leaders.[91](#) Protesters promoted the use of the #ThreeYearsJotna hashtag online, though its use declined after the movement was banned.[92](#) The organisation remained banned as of March 2021,[93](#) though the attorney general discontinued the prosecution of the movement's leaders in May of that year.[94](#)

No significant online movements were observed during the COVID-19 pandemic and lockdown. Experts attributed this to the lack of e-governance measures within Gambian public administration; for instance, all public petitions must be physically signed and accompanied with details including a national document number.[95](#)

Past digital campaigns include crowdfunding campaigns to help victims who testified at the TRRC.[96](#) Separately, in early 2018, the hashtag #FreelsmailaCeesay went viral after the prominent political science lecturer Ismaila Ceesay was arrested. Within hours, people had converged at the police headquarters in Banjul to demand his release.[97](#) Ceesay was eventually released, and all charges against him were dropped.

A history of prosecutions for online activity and related restrictions under the Jammeh administration likely still dissuades many people from mobilizing. For instance, in October 2017, amid an acute power and water shortage across the country and especially within the Greater Banjul Area, the #OccupyWestfield movement emerged to protest the failures of the National Water and Electricity Company (NAWEC).[98](#) After a permit to demonstrate against the company was denied, issued, and denied once again, protesters went ahead with the event, which was dispersed by paramilitary officers in riot gear.

C Violations of User Rights

C1 0-6 pts

Do the constitution or other laws fail to protect rights such as freedom of expression, 2 access to information, and press freedom, including on the internet, and are they / enforced by a judiciary that lacks independence? 6

The 1997 Constitution guarantees freedom of speech and of the press, though fundamental freedoms were severely restricted in practice under the administration of former president Jammeh, who once stated 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."[99](#)

The Constitutional Review Commission (CRC) released a final draft of the constitution in March 2020.[100](#) The draft enshrines freedom of expression, media freedom and access to information as fundamental human rights, following strong public support for protections of fundamental rights and freedoms.[101](#) The draft was gazetted in May 2020 and was tabled in the parliament in fall 2020, after which it could not pass the two thirds majority required over disagreement about term limits for President Barrow.[102](#) There have since been efforts to bring back the draft and former Nigerian President Goodluck Jonathan is mediating between Barrow and the opposition for a compromise.[103](#)

In August 2021, after the coverage period, President Barrow signed the Access to Information Bill 2021, after it was passed by the National Assembly the previous month.[104](#) The bill, which guarantees the right to information and is understood as an improvement in government transparency, was drafted by a civil society-led coalition.[105](#)

In March 2020, President Barrow declared a state of public emergency, restricting certain rights to mitigate the COVID-19 pandemic.[106](#) The 1997 constitution authorizes the government to declare a state of emergency, but it may not derogate certain rights, including freedom of speech and the

press.¹⁰⁷ The government extended the state of emergency in early April, late May, and again through June and July 2020.¹⁰⁸

In February 2020, the Supreme Court ruled against an executive order revoking the nomination of a lawmaker by the president, signaling a degree of judicial independence.¹⁰⁹ Previously, the Supreme Court has deferred to executive authority, as with a decision on criminal sedition that privileged the president over other officials (see C2).

C2 0-4 pts

Are there laws that assign criminal penalties or civil liability for online activities, particularly those that are protected under international human rights standards? 1 / 4

While some of the worst Jammeh-era restrictions have been overturned by courts, several restrictive media laws remain on the books, with some being recently upheld.

Comments by President Barrow in August 2021, after the coverage period, raised concerns that the government may pass new laws to restrict speech, including online speech, during or after the December 2021 elections. In a meeting with civil society groups, the president reportedly said he would seek to limit political activities after winning the election. In a subsequent statement clarifying that the government would not limit political activities, a spokesperson noted that “the president hopes to eventually come up with legislation to bring a lasting solution to the abuse and insults innocent citizens are subjected to daily on social media platforms.”¹¹⁰

In a landmark May 2018 decision, the Gambian Supreme Court declared parts of the infamous Information and Communication Act 2013 (ICA) unconstitutional, including provisions on criminal defamation. It also invalidated sections that had criminalized use of the internet to criticize, impersonate, or spread false news about public officials.¹¹¹

However, in the same ruling, the court upheld criminal code sections prohibiting “false publication and broadcasting.”¹¹² While the definition of sedition was narrowed, sedition against “the person of the president” and “administration of justice” remains a crime. The previous definition of sedition had included the entire government of the Gambia.¹¹³

Given the slow pace of reforms, media and civil society representatives have continued to call on lawmakers to introduce legislation that will repeal all draconian laws. However, many harbor doubts that the current parliament would approve such legislation.¹¹⁴

C3 0-6 pts

Are individuals penalized for online activities, particularly those that are protected under international human rights standards? 4 / 6

Under the previous administration, arrests and prosecutions of journalists and others for their online activities were common, with users frequently prosecuted on “false information” charges under the ICA. Despite improvements under the Barrow administration, dubious prosecutions over online activity have continued.

In February 2021, Three Years Jotna (TYJ) leader Yankuba Darboe was arrested and charged with sedition for criticizing President Barrow and the judiciary in relation to the ongoing trials against TYJ leaders (see B8). Darboe’s comments were shared in a video that was posted to United Democratic Party (UPD) social media sites,¹¹⁵ which appeared to motivate the arrest. Darboe appears to have been detained for less than a day before being released on bail; charges were dropped shortly after.¹¹⁶

In June 2020, prominent human rights activist Madi Jobarteh was briefly detained by local police at a Black Lives Matter protest and was charged with publishing false information. The charges were based on an interview with Jobarteh broadcast by local media, including online, where he criticized the government’s response to the police killings of Ousman Darboe in the United States and Kebba Secka and Haruna Jatta in the Gambia.¹¹⁷ The charges against Jobarteh were dropped in July 2020.¹¹⁸

In late January 2020, during the previous coverage period, the government shut down two private radio stations, Home Digital FM and King FM, along with their online services (see B2); two journalists and two technicians, both of them working at King FM, were arrested. Both radio stations covered the protests demanding President Barrow’s resignation. Pa Modou Bojang, of Home Digital FM, was detained for three days and was charged with incitement before he was released on bail. Gibbi Jallow, a reporter and general manager at King FM, was detained for the same period, and was charged with inciting violence.¹¹⁹ The technicians were released without charge. Following the intervention of the National Human Rights Commission (NHRC), the charges against the journalists were dropped in February 2020.¹²⁰

C4 0-4 pts

Does the government place restrictions on anonymous communication or encryption? 2 / 4

The ability to communicate anonymously is hampered by procedures surrounding SIM-card and local-domain-name registration.¹²¹ In February 2018, PURA fined two mobile service providers for noncompliance with SIM-card registration regulations (see A5).

It is not clear if Gambian law forbids the use of encryption. Under the ICA, users can be compelled to reveal a message by ministerial order.¹²² The ICA also requires ISPs to maintain capabilities to intercept and retain data from users (see C6).¹²³

C5 0-6 pts

Does state surveillance of internet activities infringe on users’ right to privacy? 2 / 6

Legal and technological frameworks put in place by the former administration still allow unchecked government surveillance of ICTs. Article 138 of the ICA 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 communication for surveillance purposes,” all without judicial oversight.¹²⁴

In December 2019, the Attorney General and Minister of Justice introduced amendments to the ICA to provide judicial oversight, but the parliament rejected the amendments. Freedom-of-expression campaigners at the Gambia Press Union (GPU) voiced their disappointment over the parliament’s rejection, saying parliamentarians lacked clear understanding of what they were voting on.¹²⁵

Observers believe the former administration actively monitored and intercepted citizens’ communications, particularly the communications of activists and independent journalists who were perceived as threats to national security.¹²⁶ Intercepted phone and email communications were often used as evidence in trials against government critics. However, the scope of the government’s current technical surveillance capabilities remains unknown, and it is uncertain whether the new government has continued to carry out the same surveillance practices.

In July 2020, human rights activist Madi Jobarteh alleged that he and others were being targeted by security agencies with surveillance, including of their communications devices.¹²⁷

The level of transparency for communication surveillance remains low. The director of the then-infamous National Intelligence Agency—now the State Intelligence Services—warned in early 2018 that social media may “affect security,” exacerbating concerns about the potential for online surveillance and user restrictions.¹²⁸

In December 2015, the Jammeh administration unveiled a worrying National Cyber Security Strategy.¹²⁹ The plan included the establishment of a monitoring office with a mandate that includes scrutiny of personal data protection, electronic transactions, electronic records and signatures, and computer misuse and cybercrime¹³⁰—all of which are already regulated by the ICA and provisions in the Criminal Procedure Act. However, the Barrow administration, as it confronts the challenge of reforming the fragile economy and weak institutions of the Jammeh era,¹³¹ does not appear to have pursued these plans.

C6 0-6 pts

Does monitoring and collection of user data by service providers and other technology companies infringe on users’ right to privacy? 1 / 6

The Gambia’s legal infrastructure grants authorities broad access to user data. Article 138 of the ICA requires ISPs to “implement the capability to allow authorized interception of communications” at the direction of the information minister. Article 141 of the ICA imposes onerous data retention requirements, obliging service providers to retain metadata for up to three years.¹³²

In May 2019, PURA issued a Draft Data Protection and Privacy Policy. The draft policy would establish rules for data processing in the Gambia by private- and public-sector entities.¹³³ The draft policy was not implemented into law as of August 2021.

In practice, technology companies frequently assist the government in monitoring the communications of users.¹³⁴ According to insider sources, investigative authorities need only cite suspicious activity in such requests to technology companies.

The implementation of capabilities to allow authorized interception of communications is included in the preconditions for the issuance or renewal of ISP licenses. It is not clear if any licenses have been denied or revoked as a result of lack of those capabilities.¹³⁵

C7 0-5 pts

Are individuals subject to extralegal intimidation or physical violence by state authorities or any other actor in relation to their online activities? 4 / 5

Score Change: The score improved from 3 to 4 because internet users experienced markedly less offline harassment and violence in retaliation for their online activities than in previous years.

While there were no reported instances during the coverage period, the risk of physical violence and harassment in relation for online activity persists.

Online journalists sometimes face a risk of violence in the course of their work. Yankuba Jallow, a reporter with the opposition-linked Forayaa outlet, which also publishes online, was attacked by a prison warden in April 2021 while reporting on a trial.¹³⁶ In June 2021, after the coverage period, an aide to President Barrow attacked Buba Gagigo, a reporter with the news site Kerr Fatou. Gagigo was reporting on Barrow’s voter registration.¹³⁷

Members of minority religious groups, including the Ahmadiyya Muslim Jama’at¹³⁸ and Ndigal,¹³⁹ have reported harassment both online and offline. Conservative Muslims often consider members of these groups non-Muslims, and sometimes incite hatred or violence against them. Such incidents increased after members of these groups testified in front of the TRRC in early 2020.¹⁴⁰

In 2018, there were several instances of violence against journalists, including online journalists.¹⁴¹ In September 2018, Babucarr Manga, an Eye Africa TV cameraman, was allegedly assaulted by personnel of the Police Intervention Unit (PIU), a paramilitary unit of the Gambia Police Force, for filming a public protest by aggrieved teachers.¹⁴² Earlier, a journalist from the state broadcaster was beaten by people ostensibly providing security for the Alliance for Patriotic Reorientation and Construction (APRC)—the former ruling party, of which Yahya Jammeh was a member—while covering the August 2018 funeral proceedings of Asombi Bojang, Jammeh’s late mother. Bojang’s remains were flown from Equatorial Guinea, where she resided. The broadcaster’s news crew was first denied access to the airport. They then followed the service to Bujinga, where one of the journalists was assaulted and his camera was reportedly seized.¹⁴³

At least two journalists covering local government elections in April 2018 were assaulted by supporters of the APRC. Both incidents reportedly took place at the Elections House in Kanifing during the filing of nomination papers by the party’s mayoral candidate for the Kanifing Municipality.¹⁴⁴ That June, another online journalist, Pa Modou Bojang, was beaten by members of the PIU while covering a protest in Faraba. Bojang sustained injuries, and said he was detained for hours and that his digital recorder had been seized.¹⁴⁵

Under the previous administration, violence and property confiscation against Gambian journalists for their independent and critical reporting was a serious risk, and numerous media workers, bloggers, and online journalists fled the country as a result of the unsafe environment for independent voices. Overall, such incidents have decreased under the new administration, and scores of online journalists and activists returned to the country following Jammeh’s fall from power.

Women routinely experience online harassment in the Gambia. LGBT+ people do not regularly identify as such openly online, in part because same-gender sexual activity remains criminalized in the Gambia.

C8 0-3 pts

Are websites, governmental and private entities, service providers, or individual users subject to widespread hacking and other forms of cyberattack?

3
/
3

Score Change: The score improved from 2 to 3 as no cyberattacks against media sites or government institutions were reported during the coverage period.

Recent years have seen some technical attacks against politicians, opinion leaders, and journalists. Although most of these attacks are not publicly reported, the Cybersecurity Alliance of the Gambia has recently documented an increase in technical attacks.¹⁴⁶

The last publicly reported incidents occurred during the 2016 election and subsequent political impasse that reached into early 2017.¹⁴⁷ 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 Independent Electoral Commission.¹⁴⁸ Numerous journalists, bloggers, activists, and internet users separately reported that their social media accounts had been hacked.¹⁴⁹ Activists suspected that the Jammeh administration initiated or supported the attacks in order to counter growing antigovernment sentiment online.¹⁵⁰

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