

The Gambia



header1 Key Developments, June 1, 2023 – May 31, 2024

Internet freedom in The Gambia remained unchanged during the coverage period, following a marked improvement in recent years since the departure of Yahya Jammeh in 2017. Internet users take to the internet to express views on sensitive issues, but arrests of internet users who criticize or insult the president are on the rise after an initial decline in the early years of Adama Barrow's administration. Such developments threaten to erode The Gambia's recent democratic gains.

- The Cybercrime Bill, introduced in March 2024, seeks to criminalize broad new categories of online speech, introduces concerning restrictions on privacy and anonymity tools, and, if enacted, would give authorities the power to compel service providers to assist in decryption and interception of data with little independent oversight (see C2, C4, and C6).
- The Criminal Offenses Act, which remained under consideration during the coverage period, would remove the offenses of sedition and false news from the existing criminal code and increase criminal penalties for other offenses if enacted (see C2).
- In October 2023, Madi Jobarteh, a prominent government critic, was arrested, detained, and later charged with seditious intention, incitement to violence, and false publication and broadcasting after police raided his home and questioned him about his Facebook posts (see C3).

- The host of an online talk show was detained twice, in August and October 2023, after criticizing President Barrow online. He reported being subjected to physical violence and sexual assault while in detention (see C3 and C7).

header2 Political Overview

The Gambia was ruled for over two decades by President Yahya Jammeh, who consistently violated political rights and civil liberties. The 2016 election resulted in a surprise victory for opposition candidate Adama Barrow, who was reelected in 2021. Respect for fundamental freedoms including the rights to free assembly, association, and expression has improved under the Barrow administration, but it has faced criticism for continued corruption. Among other ongoing concerns, LGBT+ people face severe discrimination, and violence against women remains a serious problem.

A Obstacles to Access

A1 1.00-6.00 pts0-6 pts

Do infrastructural limitations restrict access to the internet or the speed and quality of internet connections?	2.002 6.006
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By the beginning of 2024, approximately 45.8 percent of the Gambian population remained offline. DataReportal’s *Digital 2023* report placed The Gambia’s internet penetration rate at 54.2 percent as of February 2024.¹ According to Ookla, Gambian internet users saw a median fixed-line internet download speed of 5.66 megabits per second (Mbps) in March 2024, a decrease from 6.10 Mbps the year before.² The median fixed-line upload speed, meanwhile, had improved to 4.59 Mbps as of March 2024.³

There were approximately 77 mobile broadband subscriptions per 100 people in the Gambia in 2022, according to GSMA;⁴ the International Telecommunication Union (ITU), however, reported 50 mobile broadband subscriptions per 100 people in 2021.⁵ Most Gambians who access the internet do so via mobile devices.⁶

The government has pursued a number of initiatives to improve internet access. In late June 2019, the Gambia Telecommunications Company (Gamtel), in collaboration with Chinese technology firm Huawei, launched the National Broadband Network (NBN) initiative to improve internet speed and access across the country.⁷ In 2020, the government approved a national broadband policy, which aimed to ensure that “almost 100 percent” of homes have affordable access to high-speed internet connectivity by 2024.⁸ In October 2023, Gamtel entered an agreement with Huawei to install equipment to improve Gamtel’s core network and bandwidth to address the service and coverage demands in the ICT sector.⁹

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

During the coverage period, at least eight different incidents where fiber-optic cables were cut resulted in internet disruptions in several areas of The Gambia.¹¹ Most of the cuts were caused by activities surrounding an ongoing road construction project in the Greater Banjul Area, while a few were caused by incidents of vandalism.¹² These incidents increase operational expenditures and reduce the revenue margins of internet service providers (ISPs).¹³

The Gambia also experienced a brief internet disruption in March 2024 due to an undersea cable failure that impacted several countries in the region.¹⁴

In previous years, The Gambia experienced several internet disruptions attributed to technical problems. In 2022, when traffic was rerouted while the Africa Coast to Europe (ACE) cable was undergoing repairs, backup gateways connected to a Senegalese provider, meant to provide an alternative to the ACE cable, failed;¹⁵ Gamtel blamed the failure on faulty equipment. This resulted in a nationwide internet blackout lasting more than eight hours.¹⁶

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 internet access across the country and bolster the ICT sector by 2024.¹⁷ The government secured European Union (EU) funding to support this project.¹⁸ In 2023, the Gambian government also obtained World Bank financing for the Western Africa Regional Digital Integration Program (WARDIP), aiming to improve broadband and digital service access in The Gambia, Guinea, and Mauritania.¹⁹ The

program's activities for The Gambia include the deployment of a submarine cable and the construction of a landing station for international connectivity in Banjul.²⁰

A2 1.00-3.00 pts0-3 pts

Is access to the internet prohibitively expensive or beyond the reach of certain segments of the population for geographical, social, or other reasons?	1.001 3.003
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High cost remains a primary hindrance to internet access in The Gambia, where more than half (53.4 percent) of individuals live in poverty, according to a 2020 World Bank household survey.²¹ High prices for internet services are attributed to the high costs of accessing and building internet infrastructure in The Gambia, as well as the high taxes imposed on ISPs.²² High levels of poverty and food insecurity limit access to the internet.²³

The introduction of 3G and 4G mobile networks has made the internet more accessible, albeit for a subset of the population who can afford data packages. The IXP introduced in 2014 (see A1) aimed to make internet services more affordable, but it remains unclear whether it succeeded in doing so. ISPs generally sell data bundles. Generally, prices range from 8 Gambian dalasi (\$0.12) for 20 megabytes (MB) to 1,620 dalasi (\$23.80) for 13 gigabytes (GB) of data.²⁴ The ITU reported that the costs of mobile broadband amounted to 11.6 percent of per capita gross national income (GNI) as of 2022.²⁵

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 Poverty is more prevalent in rural areas of The Gambia, which had a poverty rate of 76 percent as of 2020, compared to a poverty rate of 34 percent in urban areas, widening the gap in internet service accessibility between rural and urban areas.²⁸ The government has identified "closing the digital divide" as a goal of the NBN (see A1), though little progress towards this goal has been noted.²⁹

In September 2023, the Public Utilities Regulatory Authority (PURA) began reviewing infrastructure-sharing regulations to ensure prompt deployment of broadband services and to lower costs of internet access, particularly addressing the rural-urban disparity in internet access across Gambia.³⁰ In March 2020, the government launched its Digital Terrestrial Transmission (DTT) infrastructure project, which aims to ensure The Gambia's analog-to-digital transition.³¹ DTT is expected to foster an increase in internet access by freeing up some of the valuable spectrum currently used for analog television broadcasting for the provision of mobile broadband services. This project had not yet been completed as of April 2024.³²

In May 2019, the government announced the introduction of a new tax on global system for mobile communication (GSM) operators across the country.³³ Reports indicate that the levy, which took effect that June, has raised millions of dalasi for the government.³⁴

A3 1.00-6.00 pts0-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of restricting connectivity?	5.005 6.006
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Although The Gambia's connection to the ACE cable and the Serekunda IXP (SIXP) is primarily managed by private sector actors, the government retains ownership and control over the country's national fiber backbone, which enables it to restrict access to the internet and mobile phone services with little to no oversight or transparency.

There were several brief nationwide connectivity interruptions in January 2020, January and February 2021, and January 2022 attributed to technical problems with undersea cables and backup internet gateways (see A1). The 2020 interruptions overlapped with mass protests calling for President Barrow's resignation, prompting speculation of government interference with internet connectivity.³⁵

The Gambia's international internet gateway is controlled by the Gambia Submarine Cable Company (GSC), a public-private partnership that is majority owned by the private sector.³⁶ Private sector members of the GSC were granted licenses to use the international data gateway in 2013.³⁷ However, state-owned and operated Gamtel owns and manages The Gambia's two fiber-optic cable networks, the ECOWAS Wide Area Network (ECOWAN) and the NBN that run across the country. ECOWAN is currently used by six operators, while the newer NBN is used exclusively by Gamtel. Netpage is the only ISP with its own fiber network. A moratorium on additional fiber infrastructure adopted by the then Ministry of Information and Communications Infrastructure (MOICI) in 2018 has prevented other operators from building out their own networks.³⁸

The Barrow administration has expressed willingness to further liberalize the sector.³⁹ The government was reportedly in talks with Google to connect The Gambia to a second undersea cable, the company's Equiano network. Private sector operators have simultaneously led negotiations with operators in Senegal to explore a possible terrestrial back-up network to improve service and decrease costs, as the country's current terrestrial international gateway is controlled by Gamtel.⁴⁰ In April 2024, The Gambia signed a memorandum of understanding with Guinea to establish a second undersea cable with World Bank funding (see A1).⁴¹

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,⁴² international calls, and short message service (SMS) access across the country for over 48 hours.⁴³

A4 1.00-6.00 pts0-6 pts

Are there legal, regulatory, or economic obstacles that restrict the diversity of service providers?	4.004
	6.006

The Gambia's ICT market is relatively small. ISPs include state-owned Gamtel and privately owned Netpage, Unique Solutions, Inet, and DK Telecom.⁴⁴ The country has four mobile service providers: Gamcel (a Gamtel subsidiary), as well as the privately owned Qcell, Africell, and Comium.⁴⁵ Of these, QCell, Comium, and Gamtel offer both mobile and fixed wireless internet. In January 2022, the government also issued a license to a new mobile service provider, Giraffe Telecom; there are few available reports on the new provider.⁴⁶

According to The Gambia's telecommunications regulator, the PURA, there are 2.7 million active mobile subscribers in the country. Of this total, Africell is by far the largest mobile service provider, controlling over 62 percent of the market as of December 2020, the most recent year for which data is available.⁴⁷ QCell represented another 28 percent of the market, with Gamcel and Comium each holding another 5 percent.⁴⁸ All mobile service providers offer 2G, 3G, and in some places, 4G data service.

Gamtel dominates the fixed-line broadband market in The Gambia, with 5,005 of the 10,570 total broadband connections as of 2020, the most recent year for which data is available.⁴⁹

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.⁵⁰ Registration for ISPs and mobile service providers remains an onerous and expensive process.⁵¹

Internet cafés, which are much less common than they were in the past, contend with regulatory obstacles. Moreover, Gamtel has reduced funding to the internet cafés and telecenter hubs it operates.⁵²

A5 1.00-4.00 pts0-4 pts

Do national regulatory bodies that oversee service providers and digital technology fail to operate in a free, fair, and independent manner?	1.001
	4.004

Serious concerns persist regarding the independence and efficacy of 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.⁵³ 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 minister of finance and economic affairs, in effect undermining the body's independence.⁵⁴

Although PURA is mandated to regulate telecommunications providers, it also receives policy guidance from the newly created Ministry of Information (MOI), and decisions about issuing telecom licenses and spectrum allocation are often in MOI's hands. In 2018, MOI (then called the MOICI) adopted a moratorium on fiber network rollout against PURA's advice (see A3). MOI's dual role in setting ICT policy and ICT regulation could enable greater state and political interference in the telecommunications sector.⁵⁵

In a rare move, PURA fined Gamcel for manipulating international voice termination rates in September 2020 and recommended that the MOICI suspend Gamcel's license.⁵⁶

Following colluding behavior among members of the GSC, PURA introduced a pricing model for access to the ACE undersea cable through the international gateway, which facilitated the entry of several new ISPs. However, some smaller ISPs have still reported facing challenges in accessing ACE cable capacity.⁵⁷

In 2023, PURA announced that operators engaged in unethical marketing practices, such as sending unsolicited messages to subscribers without obtaining prior consent, could be fined up to 50,000 dalasi (\$735). This decision was reached after PURA received several complaints from subscribers.⁵⁸

Njogu Bah was appointed as PURA’s new director general in March 2024,⁵⁹ following the end of the term of Yusupha Jobe, the former director general appointed in 2021.⁶⁰ Bah previously served in the administration of former president Yahya Jammeh, and in 2019 a Commission of Inquiry found that he aided and abetted the embezzlement of funds during his previous stint in public office, raising questions about his suitability for the position.⁶¹ Sources at the regulatory body said the entire department of legal affairs resigned in December 2020 to protest against favoritism, nepotism, and government interference in PURA’s affairs.⁶²

PURA regulates not only telecommunications but also media licensing and content, sewage, electricity, and petroleum.⁶³ Observers and some PURA officials believe this mandate is untenable and stretches the authority’s limited resources. Ultimately, decisions on telecommunications are in the hands of the minister of information.⁶⁴ Despite persistent calls for reform, the Barrow administration has not signaled any intent to reform PURA.

Though PURA’s mandate includes regulating media content,⁶⁵ the Media Council of The Gambia (MCG), a self-regulatory industry body, was established in 2018 and is hearing cases (see B3). PURA has nonetheless exercised its media regulatory powers, and in June 2023 it disclosed plans to deploy a broadcasting compliance, recording, and monitoring platform for television, radio, and digital media.⁶⁶

In May 2023, PURA queried three online radio stations—King FM, Home Digital FM, and Fayda FM—that it alleged had broadcast “certain contents which are not in keeping” with their license conditions with PURA.⁶⁷ PURA’s query against Home Digital FM was related to content that alleged two instances of government corruption. These queries came after President Barrow called for the media to be “kept in check,” leading some to believe PURA’s actions may have been politically motivated.⁶⁸ Home Digital FM and King FM had previously faced suspension in 2020 after they called on Barrow to resign (see B2). PURA had not taken further action against the stations by the end of the coverage period.

B Limits on Content

B1 1.00-6.00 pts0-6 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?	6.006
	6.006

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,⁶⁹ most of them independent news and opposition websites that were known for their criticism of the government⁷⁰ and were operated from abroad by exiled Gambian activists and journalists. All blocked websites and apps, including those containing pornographic material, became accessible when Barrow assumed office in January 2017.⁷¹

Social media platforms and communications apps were frequently targeted under the previous administration. Social media and communication platforms were last restricted in August 2016, when the authorities blocked popular platforms WhatsApp, Viber, IMO, and Skype.⁷² Analysts believed the blocks came in response to opposition groups’ and candidates’ growing reliance on WhatsApp group messaging ahead of the 2016 presidential election.⁷³

B2 1.00-4.00 pts0-4 pts

Do state or nonstate actors employ legal, administrative, or other means to force publishers, content hosts, or digital platforms to delete content, particularly material that is protected by international human rights standards?	2.002
	4.004

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.⁷⁴

Meta reported restricting access to one piece of content in The Gambia between July and December of 2023, which the company said was the result of an error and was later restored. Google did not report removing any content at the government’s request in 2023.⁷⁵

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,⁷⁶ and arrested four individuals affiliated with the stations (see C3). Both radio stations reported on protests calling for President Barrow's resignation (see B8).⁷⁷ The government permitted the stations to reopen one month later following mediation led by the National Human Rights Commission (NHRC).⁷⁸

B3 1.00-4.00 pts0-4 pts

Do restrictions on the internet and digital content lack transparency, proportionality to the stated aims, or an independent appeals process?	2.002
	4.004

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.⁷⁹

Experts believe that the former government blocked specific internet protocol (IP) addresses and domain names at the internet gateway level.⁸⁰ 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.⁸¹

The MCG, a self-regulatory body tasked with arbitrating complaints about media reports, began adjudicating proceedings in May 2020.⁸² The MCG had successfully arbitrated eleven cases, eight of which were related to online content, as of July 2023.⁸³ The MCG was established by the Gambia Press Union (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.⁸⁴

B4 1.00-4.00 pts0-4 pts

Do online journalists, commentators, and ordinary users practice self-censorship?	3.003 4.004
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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.⁸⁵ According to the GPU, self-censorship is not as prevalent as it was under the Jammeh administration.⁸⁶

However, some topics, including 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 Jammeh sympathizers, also post critical content anonymously to evade potential legal repercussions or other offline retaliation.⁸⁷ Detentions for online activity under the Barrow administration have reinforced citizens' unease about speaking freely online (see C3).⁸⁸

B5 1.00-4.00 pts0-4 pts

Are online sources of information controlled or manipulated by the government or other powerful actors to advance a particular political interest?	2.002
	4.004

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 National People's Party (NPP) of President Barrow sponsors several media outlets with an online presence,⁸⁹ and 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 party. In April 2024, the Gambian government allocated 40 million dalasi (\$590,000) to five media houses and two content creators to "promote and popularize the Gambia government agenda."⁹⁰ While the contract reportedly requires selected media to livestream government events and promote dialogue with the public and civil society, the move has raised concerns among critics that the arrangement could result in these media houses serving as agents promoting the ruling government's preferred narrative.⁹¹

The Barrow administration has also appointed information officers across almost all government ministries with the objective of disseminating information to the public.⁹² 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. Such positive portrayals of the government by information officers were also used as part of a larger strategy to bolster President Barrow's successful 2021 reelection bid.⁹³ Many of these information officers are former journalists, including some who were critical of the government.

FactCheck Gambia, an independent online fact-checking platform, was launched to counter disinformation and misinformation and covered statements around the December 2021 presidential elections and the COVID-19 pandemic, among other issues.⁹⁴

B6 1.00-3.00 pts0-3 pts

Are there economic or regulatory constraints that negatively affect users' ability to publish content online?

2.002

3.003

Small media businesses, especially online platforms, have expanded in recent years and have a growing impact on the media landscape.⁹⁵ 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.⁹⁶ Despite the change in government, economic sustainability for independent online media outlets remains a serious challenge. Online media outlets also have yet to benefit from funding provided by major technology companies.⁹⁷

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

B7 1.00-4.00 pts0-4 pts

Does the online information landscape lack diversity and reliability?

3.003 4.004

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.⁹⁸ These outlets provide information in many languages, including widely spoken local languages, catering to a variety of people within the Gambian population. A steady rise in investigative online media outlets such as Gainako and Malagen has contributed to the uncovering of corruption, mismanagement, and other issues of public interest.⁹⁹

B8 1.00-6.00 pts0-6 pts

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

5.005

6.006

Score Change: The score improved from 4 to 5 to reflect an increasingly free environment for online activism and mobilization on political, social, and religious issues.

Mobilization platforms and websites are freely available. While a January 2020 ban on an anti-Barrow protest movement has slowed online mobilization, online campaigning has occurred in several recent elections.

In March 2024, a bill was introduced in The Gambia to overturn a landmark 2015 ban on female genital mutilation (FGM) on religious grounds. This legislative proposal sparked months of online campaigning and activism from advocates seeking either to repeal the ban or to maintain it.¹⁰⁰

During the 2021 presidential campaign period, several opposition candidates benefited from online crowdfunding events and diaspora fundraisers.¹⁰¹ Political parties also used WhatsApp to send messages to rural communities who were typically excluded from online campaigning efforts.¹⁰² Under the "Digital inclusion: Not without our rural women" effort, one organization encouraged women living in rural areas to participate in the campaign by sharing the political opinions via WhatsApp voice recordings.¹⁰³

Online mobilizing also took place ahead of the April 2022 National Assembly elections. One organization's "Not Too Young to Run" Campaign, for example, succeeded in getting some young Gambians to run for, and in some cases win, parliamentary seats.¹⁰⁴ Social media campaigns also played a role in local and mayoral elections in May 2023, as the United Democratic Party (UPD) and other political parties used social media platforms to mobilize supporters ahead of the polls.¹⁰⁵

C Violations of User Rights

C1 1.00-6.00 pts0-6 pts

Do the constitution or other laws fail to protect rights such as freedom of expression, access to information, and press freedom, including on the internet, and are they enforced by a judiciary that lacks independence?	3.003 6.006
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The 1997 constitution guarantees freedom of speech and of the press, though fundamental freedoms were severely restricted in practice under 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.”¹⁰⁶

The Constitutional Review Commission (CRC) released a constitutional draft in March 2020.¹⁰⁷ The draft enshrined freedom of expression, media freedom, and access to information as fundamental human rights, following strong public support for protections of fundamental rights and freedoms.¹⁰⁸ Ultimately, it did not receive a necessary two-thirds majority in the parliament over a disagreement about term limits for President Barrow.¹⁰⁹ Mediation efforts between Barrow and the opposition for a compromise on the draft were unsuccessful.¹¹⁰ After his reelection in December 2021, President Barrow promised to introduce a new constitution with term limits.¹¹¹ The government introduced a new draft constitution in August 2024, after the end of the coverage period.¹¹²

In August 2021, President Barrow signed the Access to Information (ATI) Act after it was passed by the National Assembly in July 2021.¹¹³ The legislation, which guarantees the right to information and is understood as an improvement in government transparency, was drafted by a civil society-led coalition.¹¹⁴ Civil society has also provided training on access to information for government information officers aimed at preparing them for the implementation of the legislation.¹¹⁵ In January 2024, the MOI announced that it had developed the ATI Implementation Framework to outline timelines for implementing the 2021 ATI Act,¹¹⁶ although the Ministry drew criticism for creating a new “national roadmap” for its implementation framework instead of adopting an earlier draft developed through consultations with other stakeholders in 2022.¹¹⁷

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.¹¹⁸ 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 1.00-4.00 pts0-4 pts

Are there laws that assign criminal penalties or civil liability for online activities, particularly those that are protected under international human rights standards?	2.002 4.004
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Score Change: The score improved from 1 to 2 because The Gambia’s legal framework has featured less severe criminal penalties for online expression in recent years, though draft legislation could introduce new restrictions.

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

The criminal code prescribes a two-year prison term for the publication or reproduction of false information which could cause “fear and alarm to the public peace.”¹¹⁹ In 2018, the Supreme Court ruled that the provisions on “false publication and broadcasting,” for which offenders can be fined between 50,000 dalasi (\$735) and 250,000 dalasi (\$3,680), receive a sentence of at least one year in prison, or both, were consistent with the constitutional provisions on freedom of expression.¹²⁰ In the same ruling, while the definition of sedition was narrowed, sedition against “the person of the president” and “administration of justice” remains a crime.¹²¹

Section 170 of the Information and Communications Act (ICA) penalizes obscene information, defined as information that is likely to corrupt those who read, see, or hear it, with a prison term of up to five years, a fine of 200,000 dalasi (\$2,940), or both.¹²² Previous provisions in the ICA on defamation were struck down in 2018.

The Criminal Offenses Bill, which purports to replace the existing criminal code, would remove the provisions on sedition and false news from the legal framework in The Gambia.¹²³ However, it would retain provisions on false publication and broadcasting that the GPU has described as potentially harmful to the work of journalists and media workers, including those working for digital platforms.¹²⁴ The latest version of the bill, which was renamed the Criminal Offenses Act as it underwent its second reading in March 2024, would also increase the maximum penalties for hate speech and incitement to violence from three to five years’ imprisonment.¹²⁵

In March 2024, the Gambian parliament introduced the Cybercrime Bill, which contains a range of problematic provisions that could threaten online freedom of expression if enacted.¹²⁶ The bill would criminalize broad categories of online speech, including cyberbullying, false news or information, and speech that causes harm to the reputation of political figures, which could be used to punish journalists reporting critically on government officials. Several of the bill's provisions are so vaguely worded that they could be vulnerable to abuse, such as one offense that criminalizes any "unauthorized act" related to a computer or data.¹²⁷

Experts noted that the bill's false news provisions also mirrored the provisions of the ICA overturned by the Supreme Court in 2018.¹²⁸ The GPU sharply criticized the bill, highlighting the challenges it posed to human rights defenders, journalists, and ordinary citizens due to their potential for abuse, stemming from the ambiguous language used in defining these offenses.¹²⁹ The bill was still being considered at the end of the coverage period.¹³⁰

C3 1.00-6.00 pts0-6 pts

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

3.003
6.006

Score Change: The score declined from 4 to 3 due to an increase in arrests of journalists, government critics, and opposition members for posts critical of the authorities.

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. While there were some signs of improvement in the early years of the Barrow administration, dubious prosecutions over online activity in recent years have continued.

In October 2023, four officers from the State Intelligence Unit and Criminal Intelligence Unit raided the home of human rights activist and political commentator Madi Jobarteh, who frequently posts criticism of the president on social media, and questioned him about posts he had made on Facebook. Jobarteh posted about the incident two days later and expressed concern about continued police surveillance of his home. He was arrested and taken into custody the following day, on October 9, 2023. His phone and that of his daughter were confiscated without a warrant, and his phone was still with police as of November 2023.¹³¹ He was denied access to his lawyer in detention until he was released on a 100,000 dalasi (\$1,500) bail on October 11.¹³² Jobarteh was later charged with seditious intention, incitement to violence, and false publication and broadcasting in November 2023. He potentially faces up to six years in prison if convicted on the charges, which he claimed were politically motivated.¹³³ Jobarteh had previously faced harassment and intimidation for his Facebook posts in 2022 (see C7).

Bakary Mankajang, an independent reporter who posts on TikTok and Facebook pages called Mankajang Daily, was detained in September 2023 following his coverage of the killing of two police officers earlier that month. His whereabouts were unknown for two days. He was released after three days in detention and charged with "interference with witnesses," which carries a fine and up to two years in prison.¹³⁴

In September 2023, opposition activists Modou Sabally and Bayo Sonko were also taken into custody in relation to their Facebook posts. Sabally, the current campaign manager for the UDP, was detained after publishing critical remarks about the police following the shooting of two officers; Sonko was charged with threatening a public officer with violence.¹³⁵ Both were later released on bail.¹³⁶

Comedian and online talk show host Alhagie Bora Sisawo was also arrested in August 2023 after he criticized President Barrow and the inspector general of the police. He was questioned for three hours, and police took his phone for two hours during his three-day detention. He was granted bail without charge on August 15, 2023.¹³⁷ In October 2023, however, his bail was revoked and he was rearrested and taken to an unknown location. This arrest occurred within 24 hours of President Barrow declaring that "people charged with offences will be rearrested even if they are granted bail by a court of law."¹³⁸ Sisawo was granted bail again a week later on the condition that he leave his phone at the police station.¹³⁹ After his release, Sisawo challenged the legality of his detention in a civil suit against the inspector general and alleged that he had been mistreated during his detention (see C7). The High Court declared in November 2023 that the detention was unlawful and unconstitutional and awarded 500,000 dalasi (\$7,400) in damages to him. The judge also issued an order restraining the police from arbitrarily arresting Sisawo and ordered the police to return his phone immediately.¹⁴⁰

C4 1.00-4.00 pts0-4 pts

Does the government place restrictions on anonymous communication or encryption?

2.002 4.004

The ability to communicate anonymously is hampered by procedures surrounding SIM card and local-domain-name registration.¹⁴¹ In February 2018, PURA fined two mobile service providers for noncompliance with SIM card registration regulations.

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.¹⁴² The ICA also requires ISPs to maintain capabilities to intercept and retain data from users (see C6).¹⁴³

The cybercrime bill introduced to parliament in March 2024 (see C2) includes broad provisions that could threaten online anonymity and encryption. The bill provides for the criminalization of systems or data “designed primarily for the purpose of committing an offence,” which experts noted would threaten the use of digital security tools and would criminalize the use of privacy and anonymity tools widely used by journalists and human rights defenders to protect sources and defend themselves against cyber threats.¹⁴⁴ Other provisions in the bill, if passed, would mandate forced decryption of data, in some cases without a warrant or independent review. Those who fail to comply could face up to two years in prison.¹⁴⁵
C5 1.00-6.00 pts0-6 pts

Does state surveillance of internet activities infringe on users’ right to privacy?	2.002 6.006
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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 PURA the authority to “intrude communication for surveillance purposes,” all without judicial oversight.¹⁴⁶

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.¹⁴⁷ 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 current government has continued to carry out the same surveillance practices.

In 2020, human rights activist Madi Jobarteh alleged that he and others were being targeted by security agencies with surveillance, including of their communications devices.¹⁴⁸

The level of transparency for communication surveillance remains low. The director of the then-infamous National Intelligence Agency (NIA)—now the State Intelligence Services (SIS)—warned in early 2018 that social media may “affect security,” exacerbating concerns about the potential for online surveillance and user restrictions.¹⁴⁹
C6 1.00-6.00 pts0-6 pts

Does monitoring and collection of user data by service providers and other technology companies infringe on users’ right to privacy?	1.001 6.006
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The Gambia’s legal infrastructure grants the 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.¹⁵⁰

In practice, technology companies frequently assist the government in monitoring the communications of users.¹⁵¹ 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 a lack of those capabilities.¹⁵²

In 2022, The Gambia launched its first digital birth registry and national health insurance scheme,¹⁵³ and became the first African country with a fully digital immunization register.¹⁵⁴ Both developments highlighted the need for better data protection and privacy laws in The Gambia.¹⁵⁵

The Gambian police force began issuing vehicle licenses that contain quick-response codes (QR codes) in 2021 that can be scanned to access unprotected information about the vehicle’s ownership, including the names and addresses of the individual or individuals associated with the vehicle.¹⁵⁶

In August 2021, the 7th National Internet Governance Forum of The Gambia passed a resolution calling for the enactment of a data protection and privacy law that aligns with international standards, specifically noting the ECOWAS Supplementary Act on Data Protection and the Malabo Convention.¹⁵⁷ While The Gambia signed the Malabo Convention on Cybersecurity and Personal Data Protection in December 2022,¹⁵⁸ no domestic legislation had been enacted as of the end of the coverage period.¹⁵⁹ In his June 2023 State of the Nation address, President Barrow announced that the Personal Data Protection and Privacy Bill 2023 had been reviewed, finalized, and submitted for cabinet approval. Once approved, the bill would move to parliament for approval.¹⁶⁰

In March 2024, the Cybercrime Bill was introduced into the National Assembly (see C2 and C4). The bill permits any authorized person, such as law enforcement or intelligence agency members, to issue expedited preservation and disclosure orders, as well as orders for the “expeditious” disclosure of traffic data to individuals or service providers without requiring a warrant or independent review. The recipients of these orders must keep them confidential and comply or face fines, and there is no opportunity for recipients of these orders to challenge their validity or implementation.¹⁶¹ The provisions’ lack of judicial oversight, as well as vague language surrounding the requirements for compliance, could incentivize service providers to share more data than required, and would leave room for abuse and the violation of individual rights if enacted.¹⁶²

C7 1.00-5.00 pts0-5 pts

Are individuals subject to extralegal intimidation or physical violence by state authorities or any other actor in relation to their online activities?	3.003
	5.005

Score Change: The score declined from 4 to 3 because of multiple reported cases in which individuals were physically assaulted while being arrested or while in detention for their online activity.

Online journalists and activists sometimes face risks of intimidation and harassment in the course of their work. Though violence and property confiscation against online journalists still occur, the frequency of such incidents has decreased compared to the previous administration.

In remarks at a political rally in September 2023, President Barrow singled out two online media outlets, Mengbe Kering and Kerr Fatou, which NPP officials have accused of favoring the opposition, and said that they “would not have continued to exist” in The Gambia if not for democracy.¹⁶³ The heads of both outlets expressed concern that Barrow’s remarks had attacked their professionalism and were intended to intimidate them.¹⁶⁴ In another statement at a rally in October 2023, President Barrow declared that “...on social media, we will put an end to the practice of insulting others. Even if individuals are released on bail by a judge, we will re-arrest them.”¹⁶⁵ The Gambia Press Union condemned these statements as a threat that could incite party supporters or law enforcement against the media.¹⁶⁶

In October 2023, comedian and online talk show host Bora Sisawo alleged that he had been physically assaulted by police officers and then thrown into the street when he objected to leaving his phone at the police station as a condition of his bail (see C3).¹⁶⁷ In his civil suit against the police for unlawful detention, Bora also alleged that while he was in custody he was sexually assaulted by an officer at the police headquarters, pushed into a pool of mud, and kept in a dark cell in an unknown location.¹⁶⁸ His phone, confiscated while he was in detention, remained with the police after his release; a court ordered the inspector general of police to return his phone in November 2023.

The same month, while police were raiding the home and arresting human rights activist Madi Jobarteh in connection with his Facebook posts (see C3), officers allegedly assaulted his mother, sister, and daughter, who were attempting to photograph the raid and arrest. Police later confiscating Jobarteh’s daughter’s phone, as well as his own. Police also denied his request to bring his medication for an ongoing case of pneumonia with him when he was arrested. His condition worsened while in detention until he was moved to a hospital for two nights before being released.¹⁶⁹ Jobarteh had previously been the subject of intimidating remarks in a May 2022 presidential address by Barrow. Barrow accused the activist of wishing “to burn this country down,” stating that his administration “must look into his case,”¹⁷⁰ after Jobarteh had published an article on Facebook criticizing the government’s land allocation and calling for the firing of the minister of local government and lands.¹⁷¹

Members of minority religious groups, including the Ahmadiyya Muslim Jama’at¹⁷² and Ndigal,¹⁷³ have reported facing 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 Truth, Reconciliation, and Reparations Commission (TRRC)—established to address the abuses of the Jammeh era—in early 2020.¹⁷⁴

Women routinely experience online harassment in The Gambia. People seldom openly identify themselves as LGBT+ online, in part because same-sex sexual activity remains criminalized in The Gambia.

C8 1.00-3.00 pts0-3 pts

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

2.002

3.003

Recent technical attacks on government institutions have raised serious questions about The Gambia's cybersecurity preparedness. In November 2022, the Central Bank of The Gambia was hit with a ransomware attack that resulted in the theft of at least two terabytes (TB) of sensitive data, with hackers demanding a ransom of \$2.5 million.¹⁷⁵

The country scored low marks in the categories of data protection and cyber crisis management on a 2023 National Cyber Security Index.¹⁷⁶

Technical attacks against politicians, opinion leaders, and journalists have occurred in the past. Although most of these attacks are not publicly reported, the Cybersecurity Alliance of The Gambia has documented an increase in such technical attacks in recent years.¹⁷⁷ Civil society members who campaigned against the repeal of the FGM ban around a vote in the national assembly during the coverage period (see B8) were reportedly targeted with phishing attempts to gain access to their social media accounts.

After the 2016 election, websites that published election results indicating Jammeh's defeat were hacked to have the results removed, ¹⁷⁸ including sites run by a pro-Jammeh newspaper and the Independent Electoral Commission (IEC).¹⁷⁹ Numerous journalists, bloggers, activists, and internet users separately reported that their social media accounts had been hacked.¹⁸⁰ Activists suspected that the Jammeh administration initiated or supported the attacks in order to counter growing antigovernment sentiment online.¹⁸¹