

The Gambia: Crackdown on free speech must stop



The recent prosecutions of journalist Alhagie Bora and activist Madi Jorbateh, along with President Adama Barrow's comments expressing hostility toward media freedom, have sparked alarm regarding the state of freedom of expression in The Gambia, which had been on a positive track since President Yahya Jammeh's leadership came to an end in 2017.

ARTICLE 19 has recently observed a discernible pattern of authorities curtailing free speech, stifling political dissent, and narrowing the civic space within the country. Between 1 August and 15 October 2023, ARTICLE 19 documented five instances of arrests involving journalists, political figures, and human rights activists, all of whom were detained for merely expressing their opinions, whether through online platforms, traditional media, or public discourse.

Reacting to the increasingly critical situation, Alfred Nkuru Bulakali, the Regional Director of ARTICLE 19 in West Africa, warns:

'It is crucial that Gambia does not slide back. The recent declaration by President Barrow, in which he threatened the opposition, media, and activists, is a serious concern. The prosecution of journalist Alhagie Bora, activist Madi Jorbateh and other activists contradicts the pledges of the new authorities to end the repressive era and censorship that characterised the rule of President Yaya Jammeh, for which the victims are still waiting for justice and reparation.'

'We urge the government of President Barrow to continue with the reforms underway and make a firmer commitment to uphold democratic values, freedom of expression and protection of space for civic and political dissent – vital reforms for this young democracy.'

President Barrow has portrayed the United Democratic Party (UDP), the main opposition political party, as a threat to national security. He has threatened to arrest individuals who express their opinions, including on social media, and has also threatened the possibility of re-arrest after bail, raising significant concerns about the government's commitment to safeguarding democratic principles, pluralism and rule of law.

All charges against individuals who have been detained solely for expressing their opinions or doing their work as journalists, and who are currently released on bail, must be dropped immediately and unconditionally, and their rights and liberties must be fully restored. The government must refrain from stifling dissenting speech and promote a culture of tolerance for plurality of thinking and opinions, as well as the protection of freedom of media. A thriving democracy requires a vibrant political opposition, independent media, and an environment where all citizens can freely express their views without having to self-censor for fear of reprisal.

Regional and international norms and standards protect political speech

The constitution of Gambia guarantees freedom of expression, the right to information and emphasises the need for an independent, flourishing press, as do international instruments such as Article 19 of the International Covenant on Civil and Political Rights (ICCPR).

The suppression of insults and criticism and other opinions about the conduct of public officials is incompatible with international freedom of expression standards, which are particularly protective of political speech. In particular, the Human Rights Committee observed in its General Comment No. 34 on Article 19 of the ICCPR that 'in circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high'.

Generally speaking, [criminalisation of speech](#) must always be an exceptional and last resort – even for prohibited types of speech. In this sense, the [Declaration of Principles of Freedom of Expression and Access to Information in Africa](#) Principle 22 which calls for the decriminalisation of offences of sedition, insult and publication of false news in the press, and consider that penalties for such offences are an infringement of freedom of expression. provides that "States shall criminalise prohibited speech [namely speech that advocates for national, racial, religious or other forms of discriminatory hatred which constitutes incitement to discrimination, hostility or violence] as a last resort and only for the most severe cases" and that 'States shall not prohibit speech that merely lacks civility or which offends or disturbs'. The African Commission on Human and Peoples' Rights [Resolution 169 on Repealing Criminal Defamation Law in Africa](#), which was adopted on 24 November 2010, further calls on states 'to repeal criminal defamation laws or insult laws that impede freedom of speech, and to adhere to the provisions of freedom of expression, articulated in the African Charter, the Declaration, and other regional and international instruments'.

The constitution of the Gambia and international instruments also guarantee the independence of the judiciary. ARTICLE 19 notes that the president's threat to re-arrest those who were already granted bail would also compromise the independence of the judiciary which plays a crucial role in a free and democratic society – and could set a very dangerous precedent. The judiciary must be independent and its decisions enforced by the country's executive branch. As stated by the [UN Basic Principles on the Independence of the Judiciary](#), the judiciary shall decide matters before it impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

ARTICLE 19 calls on the Gambian government to uphold the principles of democracy, respect for human rights, and the rule of law. It is essential that political discourse be allowed, and that any restrictions on freedom of expression comply with the principles of legality, legitimacy, necessity, and proportionality in line with international human rights standards.

We remind all public figures, and in this case the president, that they must exhibit high levels of tolerance when faced with criticism. The government must further take measures to prevent intimidation and threats against journalists, including those that are likely to prompt self-censorship.

Background

On Friday, 29 September 2023, during the opening of a regional office for his party, the National People's Party (NPP), President Barrow threatened the opposition, the media and online activists, stating that he could use his presidential power to arrest them, and arguing he had same powers as former dictator Jammeh.² 'The biggest threat to Gambia's national security today is the UDP (United Democratic Party). You will not hear any political party talking except them. My friend, are they more Gambian than all of us? We all know that things that you were scared to do or say yesterday are what you are doing today. You want to make yourselves good sons and make us bad sons. You want to say the president of this country is a bad son? But this nonsense will end. The powers Yahya Jammeh was using are the same powers that I have.' He then went on to issue threats: 'Nobody will henceforth insult me in this country and go scot-free. Even if anybody calls a radio station to insult, we will arrest the radio owner. We will also go after those who insult people on social media and even if a judge bails you, we will rearrest you. We want this country to move forward.'

Madi Jobarteh, a prominent human rights advocate and the national representative of the Westminster Foundation for Democracy, part of the United Kingdom's Foreign and Commonwealth and Development Organisation's aid initiative, was apprehended by the police on 9 October 2023 in connection with comments he made on social media. He has been granted release on bail with a bond set at D100,000 (about 1,523 USD) and was obliged to appear at the Special Intervention Unit (SIU) in Banjul on 26 October, 2023. It is worth noting that, at the time of this statement, no charges have been formally filed against him.

Bakary Mankajang, the proprietor of the Mankajang Daily media outlet, was apprehended by Gambian law enforcement on 20 September 2023 in relation to his coverage of fatalities involving the police. Mankajang was subsequently granted bail and formally accused of 'interference with a witness' on 23 September 2023.

On 15 September 2023, opposition activists Modou Sabally and Bayo Sonko were taken into custody; they have since been released on bail.

Comedian Alhagie Bora Sisawo was initially arrested on 13 August 2023 after he criticised President Barrow. He was granted bail by the Gambia police force but the bail was revoked on 15 August 2023.

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