



UPR SESSION 34

THE GAMBIA

FREEDOM OF EXPRESSION & INTERNET FREEDOM

UPR.ORG



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KEY STATISTICS

WHY DIGITAL RIGHTS MATTER IN GAMBIA

HOUSEHOLDS WITH INTERNET ACCESS



13.8%

INDIVIDUALS USING THE INTERNET

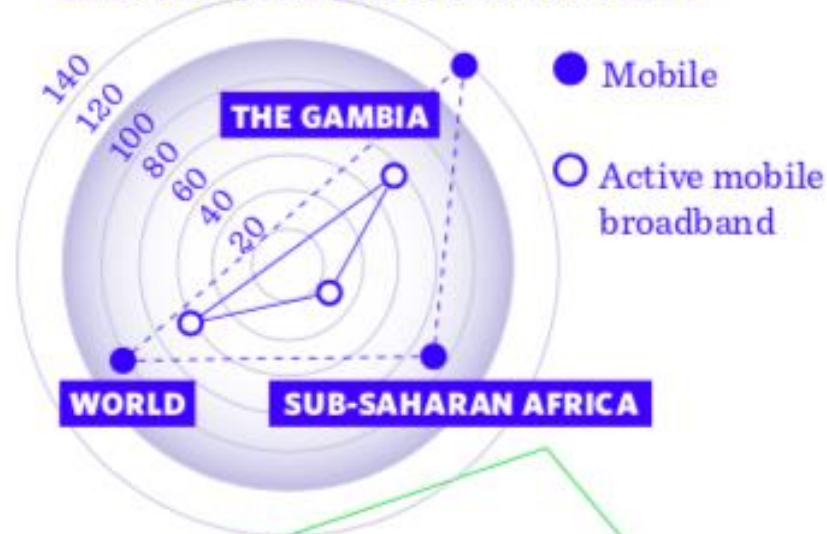


19.8%

Access is on the increase - and continues to grow quickly.

As more Gambians come online, it's important that their rights are protected comprehensively.

SUBSCRIPTIONS PER 100 INHABITANTS

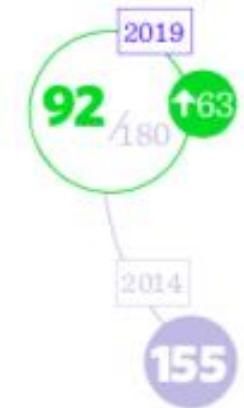


Mobile broadband subscription rates are on the increase, too.

Gambians from all walks of life are increasingly using social media to engage with social and political issues.

PRESS FREEDOM RANKING

Reporters Without Borders



The overall situation of press freedom is improving post-2016.

But there is still a long way to go.

THE POLITICAL SITUATION

Building on progress since 2016, the government of The Gambia should reform laws that violate rights to free expression and privacy online.

Until 2016, the government of Gambia imposed **strict controls on the expression and access to information** of its citizens. It did this by introducing legislation that permitted authorities to surveil citizens, and by arresting and detaining political opponents on vaguely defined security-related charges. Limitations on freedom of expression, freedom of association and the right to privacy all extended online through the **2013 Information and Communication Act**.

It therefore came as a surprise when in the presidential elections of December 2016, Jammeh lost decisively to his rival Adama Barrow. This came against the backdrop of an **internet shutdown** imposed during the elections, as well as **systematic online censorship** before 2016.

RECOMMENDATIONS

- Reform legislation on personal data protection and privacy in order to provide safeguards on the use of personal data, and protect the right to privacy online.

- Repeal in its entirety the Official Secrets (Amendment) Act 2008, and enact and implement a right to information law.

- In compliance with international standards, rulings of the Supreme Court and the ECOWAS Community Court, repeal provisions violating freedom of expression under the Criminal Code (2014) and the Information and Communication Act (2013), and desist from internet disruptions.

- Hasten efforts to provide equal access to technology and communications to all citizens, including disadvantaged and marginalised groups, by limiting economic barriers to access.

ENCOURAGING DEVELOPMENTS

Actions since the 2016 transition of power are encouraging, including the Supreme Court's ruling that a number of articles of the 2013 Information and Communication Act were unconstitutional.

However, there remains an urgent need for the new administration and the Constitutional Review Commission to take concrete action to consolidate The Gambia's human rights progress.

- Reform legislation on personal data protection and privacy in order to provide safeguards on the use of personal data, and protect the right to privacy online.

Section 23 of the 1997 Constitution of The Gambia recognises the **right to privacy**, stating that “no person shall be subject to interference with the privacy of his or her home, correspondence or communications save as is in accordance with law and as necessary in a democratic society.”

However, so far Gambia has not adopted legislation protecting the right to privacy of its citizens, or properly regulating the state’s interception of citizens’ communications. The Gambian Government should urgently enact a **data protection law** to ensure that citizens’ right to privacy is respected.

IMPACT

The urgency of the issue has been highlighted following the government’s decision to award a biometric ID contract to a private Belgian company, with essentially no guarantees over how citizens’ data would be collected, stored and managed.

- Repeal in its entirety the Official Secrets (Amendment) Act 2008, and enact and implement a right to information law.

Protections for **whistleblowers** are non-existent in The Gambia, especially in light of a 2008 Amendment to the **Official Secrets Act**. Ambiguous laws remain in place that can be deployed by the Government against whistleblowers on the basis of spreading false news and supporting terrorism. Such laws include the **2008 Anti-Terrorism Act**:

“52. (1) No person in The Gambia and no citizen of The Gambia outside The Gambia shall communicate or make available by any means any information which he knows or believes to be false to another person with the intention of inducing in him or her or any other person a false belief that a terrorist act has been, is being or will be carried out.”

IMPACT

Former Legal Advisor to the state Intelligence Agency Boubacarr Amo Badjie was arrested on 9 June 2017 after an intervention by the Personnel Management Office alleging he was the source of a leaked document to the President.

- In compliance with international standards, rulings of the Supreme Court and the ECOWAS Community Court, repeal provisions violating freedom of expression under the Criminal Code (2014) and the Information and Communication Act (2013), and desist from internet disruptions.

The current government has yet to repeal many of the legal frameworks imposed by the former administration to facilitate unchecked state surveillance. **Article 138 of the 2009 Information and Communications Act** offers a blank cheque to security services to surveil communications. It states that:

(1) The national security agencies and investigating authorities may monitor, intercept and store communications, and the Authority, when exercising its powers conferred relating to frequency monitoring, or may otherwise intrude communication for surveillance purposes.

Internet shutdowns are also an ongoing threat.

During the 2016 presidential elections, the government imposed a **48-hour internet shutdown**, causing a total communications blackout during a period where access to information and freedom of expression were crucial.

- Hasten efforts to provide equal access to technology and communications to all citizens, including disadvantaged and marginalised groups, by limiting economic barriers to access.

Internet access continues to be a luxury for many Gambians, especially in rural areas, denying many Gambian citizens access to key services and economic opportunities.

Many citizens depend on mobile data, which is currently being sold at rates far in excess of the daily earnings of citizens. The average Gambian survives on less than \$1/day, whereas 1 GB of mobile data costs \$5.

In order to properly realise their **social and economic rights**, the Gambian government should take steps to support the widening of internet access to all of its citizens.

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