

Transparency International Anti-Corruption Helpdesk Answer

The Gambia

Overview of corruption and anti-corruption



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The citizens of the Gambia, one of the smallest and most densely populated countries in Africa, managed to oust the autocratic regime of President Jammeh in the 2016 elections, after 22 years in power. This has ushered in a new administration amid encouraging signs that the opacity, repression and violation of basic rights that marked Jammeh's time in office are being edged out by a commitment to democratic norms, good governance and the rule of law. President Barrow has stated his intention to rid the country of pervasive corruption and a culture of impunity. Despite promising improvements in international governance indices, it remains too early to tell if the new government will succeed in its efforts to curb widespread corruption.

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Query

Please provide an overview of corruption and anti-corruption efforts in the Gambia.

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Overview

Political background

Unlike many of its West African neighbours, the Gambia has enjoyed long spells of stability since independence from the United Kingdom in 1965 (BBC News 2018; CIA 2018). However, under President Yahya Jammeh, who seized power in a bloodless coup in 1994 and ruled the country with an iron fist for 20 years, this stability did not translate into prosperity (BBC News 2018). Jammeh was known for extensive human rights violations and repressive laws on freedom of expression, and his rule was interspersed by violent, unfree and rigged elections (D'Aiello 2018; Freedom House 2018).

In 2016, Jammeh's rule came to an end when he was unexpectedly defeated by the main opposition candidate, Adama Barrow (US Department of State 2017; BBC News 2018). A member of the United Democratic Party (UDP) and a real estate developer, Barrow secured 45 per cent of the vote in the election, which was deemed peaceful and credible by international observers (US Department of State 2017; BBC News 2018).

Main points

- The recent election of President Barrow marked the end of 22 years of autocratic rule.
- Recent trends show positive steps towards the rule of law and democracy. These include the supreme court's declaration of restrictive media laws as unconstitutional, and the establishment of Commission of Inquiry and a Truth, Reconciliation and Reparations Commission.
- These trends appear to have strengthened citizen trust in government.
- The new government has pledged to establish an anti-corruption commission, but this has yet to happen.

The former president, having initially accepted the results, subsequently rejected them, claiming voter fraud and irregularities (US Department of State 2017). This led to a six-week political impasse, during which Jammeh declared a state of emergency. The issue was resolved largely through regional and international intervention, including by Economic Community of West African States (ECOWAS) member countries (US

Department of State 2017; Amnesty International 2018).

The democratic transfer of power resulted in significant positive changes in the human rights climate, starting with the repeal by the National Assembly of the state of emergency just a few days after Jammeh flew into exile, on 21 January 2017 (US Department of State 2017).

Among President Barrow's first acts in office was the release of 171 prisoners from the state central prison, a majority of whom were political prisoners (US Department of State 2017). With the departure of former president Jammeh and the advent of a new political atmosphere, exiled journalists and activists returned, ministers began to declare their assets to an ombudsman and the press union began work on media sector reform (Freedom House 2018).

Since 2017, an environment more conducive to the freedom of expression has emerged, as the supreme court has declared several repressive pieces of legislation to be unconstitutional, including the 2013 Information and Communication Act (which punished the "spreading of false news" via the internet) and a colonial-era law banning sedition (US Department of State 2017; Freedom House 2018).

The new administration initiated a constitutional reform process, overhauling repressive laws introduced under the previous regime, and the National Assembly passed bills establishing the Constitutional Review Commission and Human Rights Commission (Amnesty International 2018; Freedom House 2018).

Barrow has also talked tough on corruption, stating his intention to deliver good governance while

"addressing the consequences of two decades of poor governance and misuse of the state's meagre resources" (Njie 2018).

Economic background

The Gambia is one of the most densely populated countries in Africa, stretching along the Gambia River and entirely surrounded by Senegal, except for a 60 km coastline on the Atlantic. Only one-sixth of the land is arable (BBC News 2018; World Bank 2018a). The Gambia has a small economy that relies primarily on tourism, rain-dependent agriculture and remittances, which makes it vulnerable to external shocks (World Bank 2018a). The country scores poorly in terms of its Human Development Index value, which, for 2017, was 0.460, placing it 174 out of the 189 countries and territories assessed.

In recent years, the economy has suffered as a result of erratic rainfall, the spillover effects of the regional Ebola outbreak and the political crisis of 2015 to 2016. However, as with the political atmosphere, the outlook is encouraging as the economy recovered strongly in 2017, with growth estimated at 4.6 per cent (up from 0.4 per cent in 2016). Indeed, economic growth is projected to accelerate to 5.4 per cent in 2018 and 2019 and 5.2 per cent in 2020 (World Bank 2018a).

The key long-term development challenges facing the Gambia are related to its undiversified economy, small internal market, limited access to resources, lack of skills, high population growth, low private sector job creation and high rate of emigration (World Bank 2018a).

The Gambia under Jammeh

The background to the country would be incomplete without an understanding of the 22-

year dictatorship of Yahya Jammeh. His repressive rule was marked by human rights violations, murder, and disappearances of opponents, a deadly witch-hunt to weed out sorcery, and intolerance of dissent (Barry 2016; Freeman 2018). Among other things, the former autocrat claimed that his rule would last a 'billion' years and that he had special powers to cure AIDS (Barry 2016).

Over the years, Jammeh's regime was responsible for the constriction of democratic space and the systematic weakening and destruction of democratic institutions including the executive, legislature, judiciary, media, political parties, and civil society organisations (CSOs) by means of decrees and draconian laws (Sanyang and Camara 2017).

Detentions without trial, abductions, kidnappings, false imprisonments, extra-judicial killings, executions, and unbridled corruption were part and parcel of Gambian daily life (US Department of State 2017; Sanyang and Camara 2017). Policies to curb academic freedom and freedom of expression were enacted, and basic public services were either non-existent or in a very poor state. Systemic corruption and kleptocracy also crippled private enterprise (Sanyang and Camara 2017).

Dissenters and opponents, including Jammeh's own relatives, who criticised him were often killed and buried in unmarked graves (Sanyang and Camara 2017; Freeman 2018). Officers continued their atrocities with impunity – in 2000, 14 students were shot and killed during a mass protest demanding justice for student victims of assassination and rape (Sanyang and Camara 2017). Jammeh also frequently spoke of harming

members of LGBT community, including threats of decapitating them (Barry 2016).

A paramilitary unit, notoriously known as the 'junglers' controlled by Jammeh executed more than 50 Ghanaian, Nigerian, and other West African migrants in July 2005. They were bound for Europe but were suspected of being mercenaries committed to overthrowing Jammeh. The inspector general of police, the director general of the National Intelligence Agency (NIA), the chief of the defence staff, and the commander of the National Guards were reportedly complicit in this crime. The authorities involved also allegedly destroyed key evidence to prevent international investigators from learning the truth (Human Rights Watch 2018).

In the run up to the elections in 2016, Jammeh's public response to the call for an investigation into the murder of Solo Sandeng, an opposition leader who died in custody after being arrested during a demonstration in April 2016, was that it was 'really common' for people to 'die in custody or during interrogations' (Freeman 2018).

Due to the involvement of the ex-dictator in significant corruption and widespread abuses, he along with his immediate family have been barred from entering the United States (PM News 2018). The current president, Adama Barrow, has stated that he will extradite and prosecute his predecessor if the national inquiry looking at human rights abuses recommends it (Maclean and Jammeh 2018).

Recent trends

When it comes to the separation of powers in the Gambia, the constitution clearly demarcates political power between (Saine 2018; Ogbuitepu 2019):

1. the executive consisting of the president, cabinet ministers, regional governors, the entire security apparatus of the state, and various bureaucracies attached to it
2. the unicameral legislature known as the National Assembly
3. and a tripartite judiciary consisting of the English common law principles of equity and statute law, customary law which is applied by tribunals, and Sharia law administered by a cadi court system¹

Although the Gambia's constitution contains progressive provisions, such as those that underpin checks and balances and personal liberties, Jammeh frequently violated, amended and undermined the constitution to maintain his grip on power and restrict the political space in which civil society could operate (NDI 2018a). Indeed, the crisis triggered by former president Jammeh's rejection of the 2016 election results points to the historical dominance of the executive over the other two branches of government (NDI 2018a; Saine 2018; Kotze 2017).

Shortcomings in the constitution did not disappear overnight after Jammeh was ousted from power. For instance, while the constitution recognises judicial independence and states that the courts not be subjected to the control of any person or authority outside the judiciary (Nabaneh 2018), section 138 of the constitution mandates the president to appoint the chief justice after consultation with the Judicial Service Commission (JSC) (Nabaneh 2018; Ogbuitepu 2019). Although the president generally appoints senior court judges on the recommendation of the JSC, this

provision weakens the position of judiciary, as the president is not bound by the JSC's views (Nabaneh 2018; Ogbuitepu 2019).

Since coming to office, the Barrow administration has therefore established a Constitutional Review Commission (CRC) to assess how to reform the constitution to better protect citizens' rights (NDI 2018a; NDI 2018b). Security sector and civil service reform processes have also been launched under the new government (Jaw 2018).

Barrow also seems to be "committed to openness, transparency and accountability", aimed at minimising political interference in the working of government bodies (Jeffang 2017). Barrow has offered assurances that the government will operate an open-door policy towards the media, and that no journalists will be persecuted based on their journalistic work (Affoah 2017).

On 10 February 2017, the Government of the Gambia notified the UN Secretary General of its decision to rescind its notification of withdrawal from the Rome Statute of the International Criminal Court that was issued by Jammeh's government in 2016 (The Law on Police Use of Force 2018).

A Commission of Inquiry was established in 2017 to investigate Jammeh's financial misdeeds. Soon afterward, the Ministry of Justice began prosecuting six members of the National Intelligence Agency (NIA) accused of murdering an opposition candidate in 2016 (Courtright 2018).

Given these trends, it is perhaps unsurprising that a recent nationwide survey of Gambian citizens found that, despite significant social and economic

¹ *Customary law and Sharia law apply to indigenous Gambians and/or Muslims (Ogbuitepu 2019).*

challenges facing the Gambia, citizens feel optimistic about the country's direction. NDI (2018) contends that this optimism is largely driven by the newfound democratic freedoms experienced by Gambians, including freedom of expression, assembly, movement and the media.

Since the political transition in 2017, the Gambia's civic space ratings have improved from "repressed" to "obstructed" in CIVICUS' assessment, opening space for civil society and substantially improving the human rights context in the country (CIVICUS 2018).

The newly won freedom of expression appears to be keenly felt. Anecdotal evidence suggests that people now freely talk about government performance and senior officials' acts of commission or omission without worrying that someone will report them to the National Intelligence Agency (NIA) (Affoah 2017).

The erstwhile "house of terror", the NIA, has been given a new mandate and rebranded as the State Intelligence Services (Affoah 2017). However, these changes were not supported by new legislation, and despite the replacement of the heads of the police, prison, intelligence agency and military, there was no systemic reform of these institutions or any vetting of people who had committed serious human rights abuses (Amnesty International 2018).

The Truth, Reconciliation and Reparations Commission (TRRC) was launched in 2018 and is set to investigate suspected human rights violations committed under the Jammeh regime,

including extrajudicial and summary executions, enforced disappearances, arbitrary arrests, torture and other violations (CIVICUS 2018).

Despite the positive initiatives undertaken by the new government, more than one-quarter of the population experienced human rights abuses under the previous regime, and Jaw (2018) contends that building public trust will be vital to ensure the country consolidates its recent progress.

It is important to note that while the Gambia does not have a history of ethnic conflict, political rivalries are increasingly taking on an ethnic hue. Courtright (2018) argues that recent tension has its roots in a series of hateful campaign speeches Jammeh gave to supporters in June 2016 where he referred to Mandinkas² as "enemies and foreigners" and threatened to "bury them six feet under". Left unchecked, this tension could lay the groundwork for future political instability (Courtright 2018).

Corruption

While the new administration has undertaken certain initiatives to reduce corruption (Freedom House 2018), recent allegations of corruption involving the first lady's foundation have raised questions about whether the government is serious about tackling corrupt practices (Freedom Newspaper 2018a; Kujabie 2018).

Extent of corruption

In the 2018 edition of Transparency International's Corruption Perceptions Index (CPI), the Gambia

² A tribe widespread throughout the whole of West Africa particularly in Gambia, Mali, Senegal and Guinea (Access Gambia 2019b).

scored 37 out of 100 and ranks 93 among the countries assessed. This marks a notable improvement from 2017, when the Gambia scored 30 and ranked 130, up from 145 in 2016 (Transparency International 2018).

The Gambia's percentile rank for control of corruption in the Worldwide Governance Indicators (WGI) likewise shows a marked improvement in 2017 to 27.4, after a period of steady decline from 2012 (30.3) to 2016 (21.6) (World Bank 2018b).³

The 2018 TRACE Bribery Risk Matrix places the Gambia in the high risk category, ranking it 143 out of 200 surveyed countries, with a risk score of 61/100. Similarly, the Gambia's Doing Business rank for 2019 is 149/190 with a Distance to Frontier (DTF⁴) score of 51.72 (The World Bank 2019).

According to the 2017 Ibrahim Index of African Governance (IIAG), under Jammeh's autocratic rule, the Gambia was one of the 10 countries experiencing the most dramatic deteriorations in governance quality between 2007 and 2016 (Mo Ibrahim Foundation 2017). Since the transition, the picture appears brighter; in its 2018 Freedom in the World report, Freedom House awards an aggregate score⁵ of 41/100, pushing the country from the "not free" category in 2017 to a rating of "partly free" in 2018.

Afrobarometer's first national survey in the Gambia results revealed that (Kujabie 2018):

- Almost half of Gambians (46 per cent) perceive a decrease in corruption over the past year, but one-third (32 per cent) say the level of corruption in the country has increased.
- More than half (54 per cent) of Gambians say the government is doing "fairly well" or "very well" in fighting corruption.
- Two-thirds (66 per cent) think ordinary citizens can make a difference in fighting corruption, and six in 10 (58 per cent) say they can report corruption incidents without fear of retaliation.
- A majority (55 per cent) say it is "somewhat likely" or "very likely" that authorities will take action when incidents of corruption are reported.
- Large majorities of Gambians say the rich are more likely than ordinary persons to get away with paying a bribe or using personal connections to avoid taxes (71 per cent), avoid going to court (75 per cent) and register land that is not theirs (74 per cent).
- Police and business executives are perceived to be the most corrupt officials, according to 38 per cent and 31 per cent of respondents, respectively, say "all" or "most" of them are corrupt. Officials perceived to be least corrupt are religious leaders (11 per cent), members of parliament (15 per cent) and traditional leaders (15 per cent).

³ Percentile rank indicates the country's rank among all countries covered by the aggregate indicator, with 0 corresponding to lowest rank, and 100 to highest rank (World Bank 2018b).

⁴ The distance to frontier (DTF) measure shows the distance of each economy to the "frontier", which represents the best performance observed on each of the

indicators across all economies in the Doing Business sample since 2005. An economy's distance to frontier is reflected on a scale from 0 to 100, where 0 represents the lowest performance and 100 represents the frontier. The ease of doing business ranking ranges from 1 to 190 (World Bank 2019).

⁵ (0=least free, 100=most free) (Freedom House 2018).

- Religious leaders, traditional leaders and the president are the most trusted leaders. They are trusted “somewhat” or “a lot” by 85 per cent, 71 per cent and 67 per cent of respondents, respectively.

Political integrity

Conflict of interest

Conflict of interest, listed as an unethical conduct under the Code of Conduct for the Civil Service of the Gambia, was a regular phenomenon witnessed under Jammeh’s rule (Public Service Commission n.d.).

In the Gambia, government jobs are often secured by virtue of the individual’s political connections, particularly family ties with political parties in government (Freedom Newspaper 2018b).

It has been recently discovered that a deposit of US\$752,594.42 was made into the accounts of the First Lady’s Fatoumata Bah Barrow Foundation (FBBF) by TBEA Co. Ltd, a Chinese manufacturer of power transformers and a developer of transmission projects. Consequently, on the same day, the foundation made a bank transfer of US\$746,211.13 to White Airways, a Portuguese charter airline headquartered in Porto Salvo, Oeiras. The purpose of the transfer, according to the telex report was to hire a flight to China where the money originated (The Fatu Network 2018b).

The matter is being investigated internally by the foundation at board level, which many find undesirable (Freedom Newspaper 2018a; The Fatu Network 2018b). Two board members of the foundation, Alpha Barry and Fatim Badjie, have since resigned (Freedom Newspaper 2018a).

The Fatu Network (2018b) further discovered that the Gambian government, acting through the Ministry of Energy and the National Water & Electricity Company (NAWEC), is on the verge of giving the transmission and distribution project of the country to TBEA Company Ltd, the same company that made the donation to the first lady’s foundation.

Observers note that this incident is illustrative of a wider pattern of abuse of power in the Gambia, despite the new administration’s rhetoric (The Fatu Network 2018b).

Income and asset disclosure regimes

President Barrow and his coalition government had promised during the presidential campaign to build a transparent government that would be held accountable to the Gambian people. Despite this, some cabinet ministers have yet to declare their assets as promised (Sanyang 2017).

The declarations are supposed to be made available to the office of the ombudsman, Njie-Jallow, who has stated that increasing compliance with asset disclosure rules would significantly increase transparency and the trust of citizens in public administration, protect public officers from false accusations, enhance the legitimacy of government in the eyes of the public and dissuade public officers from misconduct or other illegal activity (Manneh 2018).

As yet, there has been no confirmation of whether information about officials’ assets will be made available to the public (Sanyang 2017).

Campaign and party financing

A significant gap in the legal framework is the absence of any meaningful regulation of campaign

and political party finance. There are no ceilings on donations or expenditure, and there are no reporting requirements of campaign expenditure for political parties. Monitoring or enforcement mechanisms are also lacking (European Union Election Observation Mission 2017).

Aid misuse

Due to the Gambia's poor human rights record under Jammeh, international development partners had distanced themselves from the country and substantially reduced aid. These channels are now reopening under the new administration (CIA 2018).

Recently, the leader of the opposition party, the Gambia Democratic Congress (GDC), Mamma Kandeh, accused coalition ministers of pocketing millions given to the government by international development partners. The coalition government has remained silent on the allegations levied against them, which are yet to be proven (Manneh 2018).

Procurement

Although there is now a uniform and structured framework for public procurement, there remain a number of glaring weaknesses, including the limited capacity of public procurement practitioners, complexity in the use of Gambia Public Procurement Authority standard forms, lack of e-procurement, poor record keeping and inadequate funding (SaidyJeng 2016). In addition, the president is permitted to "exempt any procuring organisation from requiring the approval of the authority with respect to any procurement" (Sharife 2018).

Two case studies exemplify the problems generated by these systemic weaknesses. Recently, QTV (a private TV station) was contracted to cover the proceedings of the Truth,

Reconciliation and Reparations Commission (TRRC), officially on the basis of lower cost for the broadcasting service provided. The state broadcaster, Gambia Radio and Television Services (GRTS), complained, arguing that they offered better value for money than QTV (Janneh 2019; The Point 2019). GRTS also allege that they were given an unreasonable deadline to prepare and submit a bid, receiving an invitation to compete on Friday 21 December 2018 and being told to apply by Monday 24 December 2018 (Janneh 2019; The Point 2019).

Under President Jammeh, and without adhering to country's procurement rules, the government signed an opaque contract with Semlex Europe SA to manage its citizens' identity documents. Leaked data from company and government insiders, including contracts, emails and internal correspondence, enabled reporters to find that the contract does not restrict or monitor Semlex's role in collecting, storing, using or safeguarding citizens' private data (Sharife 2018). The contract also prevents the government from "interfering" with any third parties selected by Semlex as investors and allows the company to repatriate profits to anywhere at any time. Moreover, a signed version of the contract, seen by the Organized Crime and Corruption Reporting Project (OCCRP), makes no mention of any government oversight over Semlex's work, although the company has been investigated by Belgian police for suspected money laundering and corruption (Sharife 2018). Despite the controversy around the contract, Barrow's government has insisted on upholding the contract in face of vocal opposition.

Forms of corruption

Kleptocracy

Well before the 2016 elections, Jammeh had a reputation as a kleptocrat among the international community (Rice 2015; Reid 2016; Freeman 2017; Freeman 2018). Jammeh was renowned for his ostentatious lifestyle comprising of expensive cars, private jets, and sprawling mansions. This lifestyle was juxtaposed against the backdrop of a country rife with high levels of poverty and consistently ranking near the bottom of the Human Development Index (Asiedu 2018).

Kanilai housed Jammeh's most elaborate estate - containing multiple residences, a jungle warfare training camp, a farm, and a vast private safari park housing exotic parrots, zebras, hyenas, and camels. It was also the site of construction for a new palace (Farge 2017). Currently, Jammeh's assets in the country are being searched for missing millions, and according to a government official, the Kanilai estate is just a fraction of Jammeh's holdings (Farge 2017).

The Finance minister has stated that US \$100 million - more than a third of the annual budget - had been siphoned from state firms. The seizure of Jammeh's assets has revealed his ownership of at least 14 businesses in almost every sector - from media and insurance to farming (Farge 2017).

To help tackle the national debt, the new government under Barrow is selling off the fleet of luxury cars, private jets, and mansions that the ousted dictator could not either take with him or liquidate when he was forced into exile in

Equatorial Guinea in January 2017 (Farge 2017; Asiedu 2018).

Records show that a trust linked to the self-proclaimed "Excellency Sheikh Professor Doctor President" owns a US \$3.5 million mansion in Potomac in the United States that was purchased from a retired NBA player (Reid 2016; Freeman 2018). In fact, the United States was reputedly the favourite shopping destination for Jammeh's wife - Zineb, who frequented the country via private jets (Reid 2016).

Initially thought to be US \$11 million⁶, the amount stolen by Jammeh from the State Treasury has been estimated to be "at least" US \$50 million. "Unlawful withdrawals" from 2006 to 2016 from accounts held at The Gambia's central bank, linked to the state-owned telecom company Gamtel were made by Jammeh, either "personally or under his instructions" (BBC News 2017).

Teodoro Obiang, Equatorial Guinea's long-standing dictator (Camara 2017; Freeman 2017) has welcomed Jammeh, now living a luxurious life in exile in one of Obiang's palaces. Equatorial Guinea is not a signatory to the statutes of the International Criminal Court (Camara 2017; Freeman 2017).

Grand corruption

Apart from looting state resources, Jammeh was involved in illicit arms and drugs trafficking (Sanyang and Camara 2017). The infamous Tajik arms dealer Victor Booth, who was arrested in Thailand in 2008 and extradited to the US in 2010, was one of Jammeh's many business associates who gave him access to weapons from

⁶ Which Jammeh stole from state coffers right before he went into exile (Freeman 2018)

unauthorised markets (Sanyang and Camara 2017).

There have also been numerous allegations of Jammeh's involvement in the illegal drugs trade. Jammeh gave personal protection and sanctuary to General NA Chuto of Guinea Bissau while regional trafficking was ongoing between Banjul, Bissau, and Dakar. Chuto has since been apprehended through a sting operation by the US Drug Enforcement Administration off the coast of Bissau (Sanyang and Camara 2017).

An investigation of Gambian Trust Bank records, and interviews with a former charity official and a former presidential staff member have revealed that funds from a bank account in the name of the Jammeh Foundation for Peace flowed to Jammeh himself, instead of being used for the foundation's projects (McAllister and Farge 2017).

The Foundation's bank statements have shown that over US \$8 million was deposited in 11 instalments into the U.S. dollar account in the foundation's name at the Trust Bank in 2012 and 2013, and all of the money was withdrawn (McAllister and Farge 2017).

While the source of most of the money could not be traced, five payments into the account in 2013 totalling US \$2.55 million were from Euro African Group, which held exclusive rights to import fuel to the Gambia between 2008 and 2013. The statements also show a US \$99,982.50 payment made by Selectra AG, a Swiss-based engineering firm (McAllister and Farge 2017).

Money from another charity's account in the Gambia was also allegedly wired to Jammeh's wife's personal account in the United States (McAllister and Farge 2017).

Sectors affected by corruption

Business

Business executives are viewed as the second most corrupt group (31 per cent) in the Gambia according to the 2018 Afrobarometer survey (Kujabie 2018).

A lack of transparency in government procedures and the siphoning of profits from successful companies negatively affected the business environment throughout the former president's 22-year autocratic reign (The Heritage Foundation 2018).

Even after Jammeh's fall from power, corruption remains an obstacle to legitimate business activity (Freedom House 2018). According to the Gambian finance minister, Amadou Sanneh, the new government is trying to strengthen the business environment, but years of autocratic rule have resulted in many state-owned enterprises coming close to bankruptcy (IMF 2018). The Heritage Foundation (2018) contends that the country is marked by inadequate contract enforcement and multiple overlapping land tenure systems (The Heritage Foundation 2018).

Human trafficking

Despite reports of official complicity in human trafficking offences under the previous administration, the government did not report any investigations, prosecutions or convictions of former government employees for complicity in human trafficking offences (US Department of State 2018).

The US Department of State (2018) further notes that the new administration, the Gambia has not sufficiently funded the National Agency Against Trafficking in Persons, which has severely impeded

its ability to investigate trafficking reports and implement the anti-trafficking national action plan.

Law enforcement

Police officers are judged to be the most corrupt public officials in the Gambia according to the 2018 Afrobarometer survey (Kujabie 2018).

Impunity and abuse of office by law enforcement officials was common under the Jammeh regime (US Department of State 2017). For instance, even though the law requires authorities to obtain a warrant before arresting a person, police officers often arrested individuals without a warrant (US Department of State 2017).

The use of illegal physical force by security agents has been less frequent under the new Barrow administration. The ex-head and deputy of the National Intelligence Agency were arrested in February 2017 on charges of torture and other human rights violations allegedly committed during the Jammeh regime (Freedom House 2018).

There were several reports of detention without clear charges during the first year of Barrow's administration, with at least a dozen members of the Gambia Armed Forces jailed, some of whom were apparently denied access to lawyers (Freedom House 2018).

The police have a human rights and complaints office at its Banjul headquarters. No information is available on the effectiveness of this internal accountability mechanism (The Law on Police Use of Force Worldwide 2018).

Natural Resources

The 2014 Investment Climate Statement prepared by the US Department of State reported that the natural resources, agriculture, and energy sectors

were at particular risk of appropriation by the Gambian government.

Sand mining in Kartung, Batukunku and Sanyang was the subject of a large corruption scandal involving the former government under Jammeh (Environmental Justice Atlas 2017).

In 2008, the Gambian Government cancelled the license it granted to an Australian company - Carnegie Minerals (Gambia) Ltd. in 2005 to extract and process heavy mineral sands containing zircon, ilmenite, and rutile (US Department of State 2014; Environmental Justice Atlas 2017). The company was first given an unrealistic 24-hour ultimatum to provide information about the type and quantity of minerals it had mined and the international value of tonnage already exported. This time period was then extended by two weeks, and after it elapsed, the authorities arrested the British manager of the company, Charles Northfield who was charged with economic crimes (US Department of State 2014). The trial did not continue as Northfield fled. However, in 2014, the Gambia's Special Criminal Court delivered judgment in the government's case against Carnegie Minerals and ordered the company to pay US \$200 million. In the case of default - all the machines and other assets of the company were to be forfeited to the state (US Department of State 2014).

Investigations show that the permit was revoked in 2008 in order to benefit Gambian companies and ventures with ties to, or under the direct ownership of Jammeh himself (Environmental Justice Atlas 2017). Moreover, after revocation of the license, illegal mining started taking place by other Gambian players that wreaked havoc for the local environment and population (Environmental Justice Atlas 2017).

The new administration's Inquiry Commission, set up to investigate the financial issues of the former government, is also reviewing this case (Environmental Justice Atlas 2017).

Legal and institutional anti-corruption framework

The Gambia adopted its second republican constitution in 1997, which recognises the country as a sovereign secular republic. It is premised on the principles of separation of powers, rule of law and respect for fundamental human rights. In practice, under President Jammeh, these principles were completely disregarded (Nabaneh 2017).

In addition, Jammeh made a number of amendments to the law, such as the removal of the two-term limit, and made sweeping reforms to the electoral law that required heavy financial deposits for presidential and National Assembly candidates. The new government has started the process of overhauling the legal and institutional system, including repealing or amending several laws from the Jammeh era that undermined human rights (Nabaneh 2017).

Legal framework

International conventions and Initiatives

While the Gambia has been a party to the United Nations Convention against Corruption since 2015, its legal framework has yet to conform to international standards (UNODC 2017). The country signed the United Nations Convention against Transnational Organized Crime in 2000 and ratified it in 2003 (UNTC 2019). It signed the African Union Convention on Preventing and Combating Corruption in 2003 and ratified it in 2009 (African Union 2019).

Apart from these treaties, the country is also a state party to (The Law on Police Use of Force Worldwide 2018):

- 1966 Covenant on Civil and Political Rights (ICCPR)
- 1998 Rome Statute of the International Criminal Court

It is also a signatory to the 1984 Convention against Torture (CAT) (The Law on Police Use of Force Worldwide 2018).

Domestic legal framework

The country's anti-corruption laws are regarded by observers as a work in progress (Kujabie 2018). It is reportedly President Barrow's intention to reintroduce a two-term limit of five years to the presidency, stating "with term limits, any president that comes will serve appropriately and have respect for the laws of the land because the person will know that there is an end to his or her tenure" (Nabaneh 2017).

In line with the new government's commitment to ensure adherence to its international treaty obligations mentioned above, the Ministry of Justice has been working on a draft Anti-Corruption Bill, providing for the establishment of an anti-corruption commission (UNODC 2017). Barrow told Gambians that his government is committed to fighting corruption and would soon submit a bill creating an anti-corruption commission and providing for measures to stamp out graft (APA News 2018; Njie 2018).

The 1997 [constitution](#) states that any person found guilty of abuse of office, corruption or any offence connected with public elections shall be ineligible to run for presidency or for a seat in the National Assembly.

Corruption and extortion by public officers, bribery, abuse of office and false assumption of authority are punishable under the Gambian [criminal code](#). However, these only relate to government officials and not the private sector, and officials have frequently engaged in corrupt practices with impunity (US Department of State 2017). Elements of the criminal code, including passages relating to corruption, freedom of expression and assembly date from colonial times and have an interpretive history which has been very restrictive and contrary to the protection of political rights. The same is also true of much public order law (European Union Election Observation Mission 2017).

While section 223 of the 1997 constitution requires public officers to make a written declaration of all property and assets including liabilities, there is no substantive law on assets declaration (Jobarteh 2017).

The Gambia does not have a freedom of information (FOI) act that consolidates state responsibilities regarding the right of access to information and providing for the transparency and accountability of national and local government bodies (European Union Election Observation Mission 2017). Nabaneh (2017) therefore argues that the country needs a FOI act to guarantee the right to free speech and independence of the media. Such measures would be in line with the promises made by the justice minister to make the reform of media laws a priority.

There is currently no law to protect whistleblowers, and, in June 2017, a whistleblower in the administration was arrested after making allegations of cronyism at the state intelligence agency (Freedom House 2018).

The latest mutual evaluation report on the implementation of anti-money laundering and counter-terrorist financing standards in the Gambia was undertaken in 2014. According to that evaluation, the Gambia was deemed compliant for four and largely compliant for eight of the Financial Action Task Force (FATF) 40 + 9 Recommendations. It was partially compliant or non-compliant for five of the six core recommendations (GIABA 2014). There are thus major shortcomings in the country's anti-money laundering framework (KnowYourCountry 2019).

Institutional framework

Judiciary

The judiciary is hampered by corruption and inefficiency (Freedom House 2018). Section 142(2)(c) of the constitution impedes judicial independence as it stipulates that judges may have their appointment terminated by the president in consultation with the JSC. The distinction between the use of "in consultation with" and "upon the recommendation of" would seem to indicate that the president is obliged to follow the decision of the JSC, although in practice the president has made the final decision (Nabaneh 2018).

Moreover, the power of the president to appoint senior court judges and to terminate their appointments severely undermines the independence of the judiciary as it makes them dependent on the goodwill of the executive (Nabaneh 2018).

The new administration has taken steps to include more Gambian citizens in the judiciary, as Jammeh had frequently appointed foreign judges whose terms he could easily cancel if they issued rulings he opposed. Hassan Bubacar Jallow, an internationally respected former UN prosecutor

and a Gambian citizen, was appointed as a new supreme court justice in 2017 by Barrow. He began his work by highlighting the shortage of Gambian judges as a critical problem. Later, in a move praised by the Gambia Bar Association, Barrow appointed eight new Gambian judges to high-level courts (Freedom House 2018).

Electoral commission

The independent electoral commission effectively managed the 2016 presidential and 2017 National Assembly elections but continues to face serious challenges. Election observers have asked for improvements to voter registration processes, polling station conditions, and more standardised counting and collation processes, as well as the redrawing of electoral district boundaries (Freedom House 2018).

The National Assembly passed the Elections (Amendment) Bill 2017 “to encourage the widespread participation of the ordinary citizenry in the new democratisation dispensation”. Earlier, Jammeh had drastically increased the fees to run for office in an attempt to quell political opposition. Candidates for presidency were required to pay GMD500,000 (approximately US\$12,500) raised from GMD10,000 (approximately US\$250); the fee for candidates for the National Assembly was increased from GMD5,000 (approximately US\$125) to GMD50,000 (approximately US\$1,000), and candidates for local council office were to pay GMD10,000 (about US\$200). Keeping in mind the low income of Gambians, the new government has reversed these changes, decreasing them to the original amounts (Nabaneh 2017).

Fraud and commercial crime unit – Gambia Police Force

The Gambia Police Force (GPF) is part of the Ministry of the Interior and has a force of about 5,000 uniformed and plain-clothes police officers. The GPF is commanded by an inspector general of police who is assisted by a deputy inspector general, and administrative and the regional commissioners. It has a fraud and commercial crime unit to deal with specialised cases of corruption and fraud (Interpol 2018).

Truth, Reconciliation, and Repatriations Commission (TRRC)

In 2017, the National Assembly unanimously passed a bill that formally established the nine-member TRRC and outlined its composition, objectives and functions (US Department of State 2017).

These include investigating human rights violations and abuses committed during Jammeh’s rule, dealing with possible prosecution, fostering social cohesion and national reconciliation, recognising the rights and dignity of victims through the provision of appropriate reparations, and learning appropriate lessons to put in place effective mechanisms to prevent a recurrence (Jaw 2018; The Fatu Network 2018a).

Citizens expect a variety of outcomes from the TRRC’s work, ranging from national peace, reconciliation, forgiveness and healing (34 per cent) to accurate records of the previous regime’s human rights abuses (30 per cent) and prosecution of accused perpetrators (28 per cent) (Jaw 2018).

The TRRC launched its hearings process on the 9 January 2019 in the capital Banjul (Amnesty International 2019).

National audit office

The national audit office (NAO), with the auditor general as its head, is the main audit institution in the Gambia. While the auditor general is appointed by the president after consultation with the Public Service Commission, the members of the NAO are appointed by the auditor general after consultation with the Public Service Commission (NAO 2019). Observers point out that the NAO, like many other oversight institutions in the country, needs to be comprehensively strengthened (Jeffang 2018).

Commission of Inquiry

The Barrow administration set up a Commission of Inquiry to probe the financial dealings of former president Jammeh. The commission interviewed many of Jammeh's former government employees and business associates to uncover the vast illegal financial dealings of the former president (US Department of State 2017).

The Commission of Inquiry's revelations have shown the extent to which resources meant for national development were grossly misused and diverted by a small clique of Gambians and their foreign partners in crime (Njie 2018).

The commission moved quickly to freeze Jammeh's assets, which helped improve the corruption safeguard score for the country in the Freedom in the World report from 0 to 1 (out of 4) (Freedom House 2018).

Office of the ombudsman

The office of the ombudsman is an independent public institution created by the Ombudsman Act 1997. It became operational in 1999. The office is headed by an ombudsman with two deputy ombudsmen, with all three appointed by the president in consultation with the Public Service Commission and confirmed by the National

Assembly to serve a term of five years. There are three main units: investigation unit, the human rights unit and the information and documentation unit (Office of the Ombudsman 2016).

During Jammeh's time in power, the ombudsman was unable to execute its functions due to lack of political will. However, the new government has guaranteed the National Human Rights Unit (NHRU) of the ombudsman unrestricted access to prisons, police cells and all detention centres to conduct its investigations (Manneh 2018).

The NHRU unit has addressed several complaints regarding unlawful dismissal, termination of employment, unfair treatment, and illegal arrest and detention (US Department of State 2017).

Other stakeholders

Media

The Gambia's constitution guarantees freedom of speech and of the press, but these rights have historically not been respected in practice. Jammeh's government used numerous legal mechanisms and repressive laws to aggressively obstruct critical reporting by journalists and media houses (Freedom House 2017). During Jammeh's time in office, the press was censored, the internet was sometimes completely disconnected, foreign journalists were expelled, Gambian journalists were detained arbitrarily and around 110 of them fled the country (RSF 2018). More journalists were arrested as the 2016 elections drew closer, including some who worked at the government-controlled public broadcaster and at government-aligned outlets (Freedom House 2017).

After his election, President Barrow reaffirmed this commitment during his first press conference to re-open media houses that had closed down during

Jammeh's regime and guaranteed their editorial independence. The Daily News, an outlet previously closed in September 2012, has resumed publication, and there are hopes that others will follow suit (Affoah 2018). Since the political transition, new private broadcast media outlets have appeared, and there are indications that the print media are no longer afraid to criticise the government. Reporters Without Borders (RSF) ranks the country 122 in the 2018 World Press Freedom Index (a positive leap from the rank of 143 in 2017).

Observers note that the new government organises regular press conferences to brief the media on political developments and engage them on pertinent issues. President Barrow has committed to holding a bi-annual press conference and one-on-one interviews with the media (Affoah 2018). In addition, the government, through the ministries of information and justice, is working with stakeholders like the Gambia Press Union and international partners like Media Foundation for West Africa and Article 19 to promote press freedom (Affoah 2018).

However, certain problems remain as some laws Jammeh used to suppress the media, such as the libel and sedition, false publication and information and communications acts remain on the books, even though their enforcement has declined (Affoah 2018). In 2017, there was at least one instance when a person was arrested and detained in connection with insulting Barrow on social media (Freedom House 2018).

Civil Society

During Jammeh's presidency, civic and political space was tightly restricted, with both national and international civil society organisations (CSOs) facing severe constraints on their operations. The

landscape has improved since 2016, as local civil society groups are able to operate more freely and engage with government officials more meaningfully (Affoah 2018).

Until the fall of Jammeh's regime, civil society and the opposition lacked access to state media and self-censorship was widespread practice in order to avoid trouble from the authorities. Analysis of civil society during Jammeh's rule found it to be characterised by disunity, fear, intimidation, patronage, political ignorance and poverty (Darboe 2010). There was no coherent opposition and the focus of existing civil society groups was typically narrowly issue-based (Darboe 2010).

However, when Jammeh started planning to seek a fifth term in office, Gambian civil society and activists began to forge links with the more than one hundred journalists and thousands of Gambian living in exile abroad. Online and social media became the forums for discussions and campaigning, which ultimately contributed to the outcome of the 2016 elections (Sanyang and Camara 2017). Observers report that the intense social media campaign drew out younger voters who were frustrated with the ongoing corruption and violence (News24 2016).

In fact, such was the impact of social media that the Jammeh government reacted by blocking WhatsApp as a reaction to the high volumes of internet activity during the run-up to the election. The government also orchestrated an entire internet shutdown before voters went to the polls and telephone calls into and out of the country were disabled through the international telecommunications gateway (Sanyang and Camara 2017).

In addition, during the run up to the 2016 elections the opposition faced heavy crackdowns. One activist, Solo Sandeng, who led a rare public protest calling for electoral reform was beaten to death in police custody. Over 90 activists were arrested for participating in largely peaceful protests. The courts also convicted 30 opposition members and sentenced them to three-year terms (Human Rights Watch 2016).

The opposition rallied behind a single candidate Adama Barrow, in order to increase their chances of winning. They did so even in the face of great danger to their lives in the event they lost the elections (News24 2016; Human Rights Watch 2016).

Nonetheless, when Jammeh rejected his defeat in the presidential elections at the end of 2016, Gambian CSOs, who launched a "barrage of public statements" (USAID 2016) to pressure him to concede. The West African Civil Society Forum (WACSOF) even called for peaceful civil disobedience against Jammeh's government until it relinquished power (Ibekwe 2017).

While CSOs' legal environment, financial viability, and advocacy work have not shown notable changes since Barrow took office, other areas, such as organisational capacity, strategic planning, public relations, and the ability to provide goods and services to communities have registered some improvements (USAID 2016).

A few notable CSOs operating in the Gambia in the governance sphere are as follows:

Africa in Democracy & Good Governance (ADG) was established in the Gambia to promote democratic principles and good governance in the country. It seeks to fight corruption, lobby for

reforms and generally improve governance (Access Gambia 2019a).

The African Centre for Democracy and Human Rights Studies (ACDHS) is independent, non-profit human rights organisation based in Banjul. It was set up in 1989 by an Act of Parliament of the Republic of the Gambia. However, in 1995 the African Centre was re-launched as an independent, autonomous and pan-African NGO. The main objective of the African Centre has been the promotion and protection as well as the observance of all human rights and democratic principles throughout Africa. To fulfil its aim, it seeks to conduct research, undertake training programmes, maintain a documentation centre, and provide assistance to the African Commission for Human and Peoples' Rights (ACDHS 2018). In 2018, the ACDHS hosted an NGO forum around the theme of the African Union Convention on Preventing and Combating Corruption.

The Centre for Human Dialogue, a Swiss-based private diplomacy organisation, sent an assessment mission to the country that overlapped with the 2017 parliamentary elections. It was then recognised as an election observer by the Gambian Independent Electoral Commission (IEC) and it began holding discussions with political stakeholders on the overall political landscape. It now engages political parties in inter-party discussions to highlight the need to develop dialogue mechanisms across political divides (HD 2018).

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