

# Speech on Freedom of Expression, Privacy, and Access to Information in The Gambia

## Introduction

Good morning, everyone. Today, I want to address the state of freedom of expression, digital rights, privacy, and access to information in The Gambia. This is a critical topic, as these rights form the bedrock of any democratic society. We will explore recent developments, ongoing challenges, and the necessary steps for reform.

## Current Situation in The Gambia

Since the re-election of President Adama Barrow in 2021, The Gambia has seen some improvements compared to the previous era under Yahya Jammeh. However, significant issues persist, particularly when it comes to freedom of expression. We've witnessed crackdowns on dissent directed at opposition figures, journalists, and civil society activists. Restrictive laws such as those covering sedition, false news, and criminal defamation are still being used to stifle criticism, both online and offline.

Although The Gambia passed the Access to Information law in 2021, the country has not yet implemented it. Additionally, there is a lack of comprehensive legislation on data protection and privacy, leaving citizens' personal information vulnerable to misuse.

## International Obligations and Missed Opportunities

The Gambia is obligated, under international standards, to uphold the rights to free expression and privacy. In 2018, the ECOWAS Court of Justice directed The Gambia to repeal or amend laws related to criminal libel, sedition, and false news. This ruling emphasized the need to align national laws with international human rights obligations. Unfortunately, despite these directives, many of the repressive laws remain in place, revealing a significant gap between The Gambia's international commitments and its domestic actions.

## Problematic Legislation and Recommendations for Reform

The current legal framework contains several problematic sections:

- Sedition is criminalized under Sections 46, 51, and 52 of the Criminal Code.
- Section 178 covers criminal defamation.
- Section 181A penalizes "false publication and broadcasting."

These laws carry severe penalties, including imprisonment and hefty fines, which deter journalists and ordinary citizens from expressing their views freely. Although the Gambian Supreme Court struck down criminal defamation in 2018, it upheld parts of the laws on sedition and false news. This partial reform falls short of the changes required to fully protect freedom of expression.

To address this, we recommend the repeal of these restrictive laws. Additionally, the proposed Cyber Crime Bill 2023 should be revised to ensure it does not introduce new offenses that further restrict free speech, such as criminalizing "false news."

## Recent Incidents of Harassment and Arrests

In recent years, there have been several high-profile cases of harassment and arrests:

- In 2020, human rights activist Madi Jobarteh was detained for criticizing the government's handling of police-related deaths.

- In 2022 and 2023, then opposition figures like Mamadou Sabally and popular media personalities such as Alagie Bora Sisawo were arrested for expressing their views on social media.

- In 2020, two radio stations, Home Digital FM and King FM, were forcibly shut down for one month due to their coverage of protests against President Barrow. The station directors were detained, accused of inciting hatred.

These incidents reflect a broader pattern of using legal measures to silence dissent and control the narrative. It is vital for the Gambian government to stop the harassment and detention of journalists and activists who are exercising their legitimate right to free expression.

## Data Protection and Privacy Issues

Another area of concern is data protection. Currently, The Gambia does not have a comprehensive law safeguarding personal data. The only existing framework is the Information and Communication Act of 2009, which permits the monitoring and interception of communications by national security agencies. This lack of robust data protection legislation exposes individuals to potential abuse and infringes on their right to privacy.

In 2020, the government initiated a draft Data Protection and Privacy Bill, aiming to create a strong legal framework in line with international standards. However, this bill has not yet been enacted. We urge the government to prioritize passing this legislation to protect citizens' privacy and establish proper oversight mechanisms.

## Key Recommendations for Reform

To foster a more open and democratic society, The Gambia should undertake the following reforms:

### 1. Amend Restrictive Laws:

Repeal laws on sedition, false news, and criminal defamation. Ensure that new legislation, such as the Cyber Crime Bill, aligns with international human rights standards.

### 2. Implement the Access to Information Law:

Fully operationalize the 2021 Access to Information law to enhance transparency and accountability in government operations.

### 3. Pass Comprehensive Data Protection Legislation:

Expedite the enactment of the Data Protection and Privacy Bill to safeguard individuals' personal data and privacy rights.

### The Path Forward

Moving forward, The Gambia must commit to upholding its international human rights obligations. Strengthening freedom of expression and implementing comprehensive data protection laws are essential steps in building a resilient democratic society. Collaboration with civil society, media stakeholders, and international bodies will be crucial in pushing for these reforms.

### Call to Action

There is an urgent need for legislative reforms in The Gambia to protect fundamental freedoms. Continued advocacy from local and international stakeholders is essential to hold the government accountable and drive these necessary changes.

I call upon everyone here today to support efforts to promote freedom of expression and privacy rights in The Gambia. Engage with civil society initiatives, back international monitoring efforts, and encourage government officials to prioritize legislative reforms that protect these vital rights.

Thank you for your time.