

U4 Helpdesk Answer

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The Gambia: Overview of corruption and anti-corruption

When President Adama Barrow came into power in 2017, there was renewed hope for good governance in the Gambia. Though the new government is off to an encouraging start, it is yet to deliver on many of its promises on good governance. Notable reforms include increased judicial independence, and the establishment of transitional justice mechanisms, such as the Truth, Reconciliation and Reparations Commission as well as the Janneh Commission that investigated financial crimes committed by the former president Yahya Jammeh and his allies. The National Assembly recently passed the Access to Information Bill and has long drafted an anti-corruption bill but also rejected the draft Constitution in 2020. Civic space has also expanded since 2017, but there are signs of democratic backsliding. In some circumstances, activists have been met with relatively heavy-handed responses, and journalists have been mistreated.

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AUTHOR

Mathias Bak (TI)

tihelpdesk@transparency.org

REVIEWED BY

Saul Mullard (U4)

saul.mullard@cmi.no

Marr Nyang (Gambia Participates), and Jorum Duri (Transparency International)

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Query

Please provide an overview of corruption and anti-corruption in the Gambia; in doing so, please also elaborate on relevant civil society stakeholders, the media and their role in the country. If possible, also provide an overview of how grand corruption has been addressed in the country's recent reforms and how these reforms may have addressed public office accountability.

Contents

1. Background
2. Extent of corruption
3. Nature of corruption challenges
4. Sectors vulnerable to corruption
 - a. Judiciary and the rule of law
 - b. Security sector
 - c. Private sector
 - d. Extractive industries
5. Legal and institutional anti-corruption framework
6. Other stakeholders
7. Conclusion
8. References

Background

In 1994, a young army officer named Yahya Jammeh led a coup, ousting the Gambia's first government after independence. Jammeh and his military council promised a transparent and accountable government and an end to what they claimed was rampant corruption (Darboe 2021b). However, Jammeh's rule was characterised by heavy government suppression and endemic corruption. The regime regularly used unofficial intelligence units called 'Junglers' to silence opposition and cultivated a climate of fear through torture, mass executions and kidnappings (Maclean and Jammeh 2021).

MAIN POINTS

- The Gambia has a score of 37 out of 100 on Transparency International's 2020 Corruption Perceptions Index, which is a significant improvement from 2016 when it scored 26 out of 100.
- The National Assembly recently passed the Access to Information bill, which is an important step towards more transparency in government. However, the National Assembly has not passed many other institutional and legal reforms required for political transformation, leaving the Gambia with a weak anti-corruption framework.
- Civic space has expanded since the change in government in 2017. However, civil liberties are yet to be fully consolidated, and signs of democratic backsliding have begun to

Over the years, Jammeh's control over state institutions and state-owned enterprises grew, making the political system personalistic in nature. Powerful patron-client networks close to the president engaged in grand corruption with impunity (Sharife and Anderson 2019).

U4 Anti-Corruption Helpdesk

In 2016, Jammeh was defeated in presidential elections by the opposition leader, Adama Barrow. After initially conceding defeat, Jammeh rescinded his acknowledgement of the election results and refused to step down. The Economic Community of West African States (ECOWAS) initiated a military intervention with the aim of safeguarding a peaceful transfer of power. Jammeh eventually conceded defeat and went into exile in Equatorial Guinea. He and his wife are subject to targeted sanctions by a number of western powers, including the United States, over human rights violations and corruption (US Treasury 2020).

Years of mismanagement and corruption took a heavy toll on Gambia's institutions and economy and severely weakened the state's administrative structures (BTI 2020). Jammeh's military council seriously neglected public services while looting state coffers. Corruption removed incentives for investment, development and private enterprise (BTI 2020). In 2015, almost half (48.6%) of the Gambian population lived in extreme poverty (World Bank 2018). The state's domestic revenue mobilisation capacity is limited (though not non-existent), and services such as health care are unevenly available throughout the country (BTI 2020). Currently, the Gambia has a Human Development Index Score of 0.49, putting it well below sub-Saharan African nations' mean score of 0.547 (UNDP 2020). A remarkably high number of Gambians are without services such as medical care, and many still lack infrastructure such as running water, electricity and sewage (Afrobarometer 2019: 6)

When Adama Barrow was sworn in as president, he called it a victory for democracy (Mwakideu 2020). With the change in government, the Gambia has shown some progress towards democracy: civil society, a free media and citizen participation have been growing. International election observers

commended the 2017 parliamentary elections as relatively free and fair (Freedom House 2020).

As shown by the [immediate spike](#) in the Gambia's score on the Varieties of Democracy indices, the political transition led to immense democratic progress in the Gambia. Public polls back up this generally positive view, showing that Gambians generally feel freer than they did before (BTI 2020). In 2020, 55% of Gambians reported believing that elected officials listen either 'sometimes', 'often' or 'always' (Jaw and Isbell 2020a).

The new coalition government has begun to improve the political climate in the country and initiated reforms that should accelerate democratic transformation (Rahman 2019). For instance, in 2018, the Gambian government published its 2018-2021 National Development Plan. The plan seeks to restore democracy and the rule of law; provide transitional justice; and reform the country's security sector in order to foster good governance, social cohesion and economic development (Shaban 2018).

The government has also launched initiatives such as the Truth, Reconciliation and Reparations Commission, the Constitutional Review Commission to promote reconciliation, addressing past injustices and reforming suppressive laws (Jaw and Isbell 2020b). The commission has played a key role in revealing the extent of the Jammeh regime's abuse and undermining of the rule of law. The Constitutional Review Commission has created a draft reform for the Gambia that does away with suppressive Jammeh-era laws and establishes a constitution that is more conducive to democratic transformation (Nabaneh 2020).

The Commission of Inquiry into the Financial Activities of Public Bodies, Enterprises and Offices as Regards Their Dealings with Former President

U4 Anti-Corruption Helpdesk

Yahya A J J Jammeh and Connected Matters, better known as the Janneh Commission, was tasked with mapping the scale and scope of grand corruption in the Gambia during Jammeh's reign (see Ministry of Justice, no date). In 2017, the Gambia Ministry of Justice froze 200 assets, based on 'preliminary findings' from the Janneh Commission. Asset seizures are also underway in the United States (Associated Press 2020). However, these seizures are 'just the tip of the iceberg' (Tamadou in Akwei 2017).

Overall, the Gambian government has promised to strengthen the separation of powers and avoid unnecessary executive interference in other branches of government. Judicial independence and general professionalism in the courts have improved substantially in recent years, but there is yet to be a major test of just how independent the judiciary is (BTI 2020). The National Assembly, too, appears more willing to use its powers to check the executive than in the past (BTI 2020).

However, recent developments are not entirely positive, however. One source of contention is the 2017 promise by President Barrow to be a transitional president and stay in office no longer than three years. Once in power, Barrow opted to stay his entire 5-year term (MacLean and Jammeh 2019). This sparked large protests in the Gambia, and critics are starting to claim that Barrow tries to 'flatter Jammeh by imitating him' (Grey-Johnson 2019).

Another concern is the slow pace of reform. Critics claim that too little has been done to advance the fight against corruption and react to the findings of the Janneh Commission (Bah 2021). The recovery of assets is proceeding so slowly that it has barely covered the operational expenses of the commission itself (Grey-Johnson 2019). In addition, relevant anti-corruption laws such as the Anti-Corruption Bill are yet to be passed in

parliament, whereas the long-awaited Access to Information Bill has only just been passed.

Finally, there are some gaps in the speed and efficiency of the transitional justice process. Even though the Truth and Reconciliation Commission and the Janneh Commission have placed responsibility for past crimes on high-profile individuals, a number of people who worked for Jammeh have not been punished and some continue to serve in government (Grey-Johnson 2019).

Security sector reform and fiscal transparency reform, two key avenues for anti-corruption reform and democratic transformation, have also moved at a very slow pace (MacLean and Jammeh 2019).

Moreover, factionalism has crept into post-Jammeh Gambian politics and social tensions linger under the surface (Jaw, Isbell 2020). While the Gambia is a multi-ethnic society without a history of inter-ethnic violence, there are concerns that political parties could potentially turn ethnic identity into a fault line in the country (Freedom House 2020; BTI 2020). Particularly in the late stages of Jammeh's presidency, politicians used ethnic and religious identity politics to shore up support (BTI 2020). The extent to which the Gambia should label itself a secular country (favoured by most Christians and religious and sexual minorities) or an Islamic country is also the subject of serious debate (Jaw, Isbell 2020; Freedom House 2020).

Furthermore, Jammeh-era laws still enable new governments to crack down on criticism. In recent years, the police and army have responded severely to a number of protests (BTI 2020). In the worst cases, the treatment of civil society activists and journalists has conjured up memories of the recent authoritarian past (Grey-Johnson 2019).

U4 Anti-Corruption Helpdesk

Extent of corruption

Corruption remains a serious issue in the Gambia despite improvements in recent years. The country has a score of 37 out of 100 on the Corruption Perception Index (CPI) and ranks 93 out of 180 countries (Transparency International 2020). This score is substantially better than 2016, when the Gambia scored 26 out of 100. This shows that there has been significant improvement on the CPI since the new government came into power.

On the 2020 Mo Ibrahim Index of African Governance, the Gambia has an overall governance score of 55 out of 100, ranking 16 out of 54 countries. Gambia's score on the index has been improving in recent years. However, the scores for accountability and transparency (42.9) and anti-corruption (50.7) are below the country's 55 mean score (Ibrahim Index of African Governance 2020).

The country's performance on the World Bank's Worldwide Governance Indicators has followed a similar trend. The Gambia's governance scores ranged from -2.5 to +2.5 between 2014 and 2019. Overall the Gambia improved but still scored negative on indicators for control of corruption (-0.69 in 2014 to -0.29 in 2019), rule of law (-0.69 to -0.37) and government effectiveness (-0.67 to -0.63). The most significant improvement was the indicator for voice and accountability (-1.27 to -0.22), though the score was still negative (World Bank 2020).

In the 2018 Afrobarometer survey, 46% of Gambians said that corruption decreased either 'somewhat' or a 'lot' in the previous 12 months; 15% believed it had stayed the same; and 32% believed corruption had increased either somewhat or a lot (Afrobarometer 2018). Similarly, 54% of respondents in the survey believed that the government was countering corruption fairly or

very well, while 37% did not think the government was doing a good job against corruption (Afrobarometer 2018). Importantly, 66% of respondents in the Global Corruption Barometer believe that ordinary people can make a difference against corruption (Transparency International 2019).

Overall, the Gambia has improved its performance on various governance indicators since the political transition in 2017, which may indicate that the country is moving in the right direction towards good governance.

Nature of corruption challenges

Grand corruption

Grand corruption has been systemic in the Gambia for the last two decades. The former President Jammeh's patronage networks allegedly governed Gambia 'like an organised crime syndicate', reportedly looting or misappropriating approximately US\$1 billion from the country (Sharife and Anderson 2019).

According to the first white paper published by the Janneh Commission, the former government embezzled, misappropriated and wasted around US\$305 million (Janneh Commission 2019a: 17-18). The Organised Crime and Corruption Reporting Project (OCCRP), however, has published evidence that Jammeh and his network embezzled at least US\$1 billion from state institutions (Sharife and Anderson 2019). An estimated US\$369 million was looted from the state-owned telecom firm and another US \$356 million from illicit timber felling. A substantial amount of money was also diverted from foreign aid, various social security funds and state-owned

U4 Anti-Corruption Helpdesk

enterprises (Sharife and Anderson 2019). The eighth volume of the Janneh Commission's report series details the enterprises that played important roles in Jammeh's kleptocratic schemes.

In particular, Jammeh's influence over the Central Bank of the Gambia allowed him to access a variety of accounts and create several slush funds inside the bank. The special access regime also enabled Jammeh to move substantial amounts of money from the Central Bank's reserves into his slush funds and personal accounts. Jammeh diverted money from the Consolidated Revenue Fund; the International Gateway Account, which was used by Gamtel, a state-owned telecommunications enterprise; and numerous other accounts (Janneh Commission 2019b). Meanwhile, the Central Bank was heavily indebted, with interest payments making up close to 40% of the bank's total spending (Sharife and Anderson 2019). All in all, Jammeh was known to control 89 bank accounts. The Janneh report's first and second volumes (see Janneh Commission 2019b) provide a more detailed overview of these accounts and the transactions flowing through them.

Additionally, the ex-president set up at least 10 businesses (a practice that is now outlawed by the current constitution). These businesses generally did not comply with legal requirements or pay taxes and often received unfair advantages in their respective sectors (see Janneh Commission 2019b: 25-34). Procurement practices were in flagrant violation of legal requirements, as detailed in the seventh volume of the Janneh Commission report series (Janneh Commission 2019b).

Jammeh generally spent money on a lavish lifestyle. According to the United States' Department of Justice, which is engaged in a series of asset seizure cases, Jammeh owned at least 281 properties (Associated Press 2020).

Other individuals from Jammeh's inner circle who allegedly played a key role in corruption in the Gambia include Sulayman Badjie, a military general who provided the logistical capacity for the government's smuggling operations (particularly in timber); two Hezbollah-affiliated businessmen named Mohamed Bazzi and Ali Charara, who had virtual monopolies in the telecommunications and oil sectors (Sharife and Anderson 2019; Janneh Commission 2019). Other people implicated include Isatou Njie Saidy, former vice president and vice chairperson of Operation Save the Children and the NGO Jammeh Foundation for Peace, both of which were involved in corrupt money transfers (Jammeh Commission 2019c: 95-96), as well as Amadou Abdoulie Samba, a prominent lawyer and CEO of a Gambian cement factory. High-level civil servants, particularly in the central bank and security services, colluded with Jammeh's corrupt networks. The specific activities and names of the 38 most important individuals are explored in some detail in the 270-page-long second chapter of the Janneh Commission's ninth report.

While there is no hard evidence that this kind of grand corruption has continued since Jammeh's ouster, activists and commentators argue that it still occurs and that the current government often appears hesitant in its response (Bah 2021). One potential new case is the embezzlement of COVID-19 earmarked funds. The health minister Ahmadou Lamin Samateh, for instance, has claimed that some unspecified officials invented 'ghost' health workers in an attempt to embezzle money (APA 2020).

Critics also point out that many of Jammeh's accomplices have gone unpunished and still have active careers in business, politics or the military. For instance, there are accusations that Mohamed Bazzi, a key member of Jammeh's patronage network, is not only still doing business in the

U4 Anti-Corruption Helpdesk

Gambia, but has made connections in Barrow's government as well (Grey-Johnson 2019). The governor of the Central Bank of the Gambia from 2010 and 2017, Amadou Colley, also has not been punished for his role in the embezzlement schemes (Grey-Johnson 2019).

Other persons implicated in the grand corruption schemes have continued and even advanced their careers. A former diplomat at the Gambian Embassy in Taiwan, which allegedly gave Jammeh aid in return for state recognition, has been promoted to Gambia's Finance Minister (Grey-Johnson 2019, still the case as of 2021).

Furthermore, a couple of years after the political transition, the government in the Gambia has chosen to continue a number of controversial contracts made by the former government under highly suspicious circumstances. These include a contract with the Belgian company Semlex, which produces biometric passports and ID documents. According to critics, the contract was signed without a real public bidding process and by ministers who may have had serious conflicts of interest (Sharife 2018).

Petty corruption

Petty corruption in the Gambia is still a widespread issue. In the Global Corruption Barometer for Africa (2015-2019), 21% of Gambian respondents reported having paid a bribe within the last 12 months when accessing a public service. Among respondents, the institutions with the highest rates of reported perceived corruption are the police (38%), judges and magistrates (25%) and government officials (23%) (Transparency International 2019). Indeed, 20% of Gambians who sought police assistance in 2018 reported paying a bribe (Afrobarometer 2019). Meanwhile, 8% of those seeking health services and 13% of those seeking water, sanitation or electricity-related

services in 2018 paid a bribe (Afrobarometer 2019: 5-7).

Sectors vulnerable to corruption

Judiciary and the rule of law

A top priority for the Gambia after 20 years of dictatorship is to restore the rule of law and the independence of the judiciary. On the World Justice Project's Rule of Law index, the Gambia had a score of 0.50, from a range of 0 to 1, in 2020. The Gambia performed slightly better than the regional average (0.47) for Sub-Saharan Africa and ranked 78 out of 128 countries globally (World Justice Project 2021). The 2020 report was the first year in which the country was assessed, and possible progress will be recorded in years to come.

One of the main impediments to strengthening the rule of law and judicial independence in the Gambia is the 1997 Constitution, which contains a series of immunity clauses that protect certain members of the security apparatus from prosecution by public courts (Darboe 2021). For instance, the military council has issued a number of decrees that the National Intelligence Agency cannot be taken to court. According to lawyers testifying to the Truth, Reconciliation and Reparations Committee, the 1997 Constitution was amended 52 times, mostly with the aim of protecting Jammeh's allies from prosecution (Darboe 2021). In addition to effectively putting members of the security sector above the law, many of these amendments also created substantial confusion among lawyers (Darnoe 2021).

The military council ensured that the anti-corruption measures in the 1997 constitution were

U4 Anti-Corruption Helpdesk

used, in practice, to target regime critics, dissidents and non-loyal civil servants (Darboe 2021). For instance, the law that forbade misinformation was used to target internal whistleblowers and regime critics, whereas laws against economic criminality were used to target former employees of the previous governments (Darboe 2021).

Justice, the rule of law and judicial independence were also undermined in extra-legal ways. For instance, the intelligence agency manufactured evidence and bribed witnesses in court cases. The former regime also often intimidated and even arrested lawyers for failing to comply with directions (Darboe 2021).

All in all, the former regime had little respect for judicial independence. In 2014, Jammeh mocked the notion of judicial independence when he appointed a new Chief Justice of the Gambia, claiming that ‘there is no independent judiciary—it’s not true that the judiciary is independent’ (Jammeh in The Point 2014). The bar association often opposed Jammeh, and his personal disdain for the association was no secret (Darboe 2021). Judges often served only short terms and were frequently dismissed for little reason other than failing to display political loyalty (Rickard 2019).

Recent years have seen not only increased scrutiny of the abuses of the past, but significant rulings rolling back some of the immunity clauses. In January 2021, the Gambia’s Supreme Court ruled that a member of the former military council, known to have committed a murder, would no longer be immune to prosecution based on the immunity clause amendments to the 1997 constitution (Janko 2021). The ruling could potentially set a precedent for the immunity clauses protecting former regime insiders to be deemed unconstitutional (Janko 2021). If so, this would certainly be a major victory for rule of law and judicial independence in the Gambia. Reparations

have also started to be handed out by ECOWAS to judges who were mistreated, such as the Nigerian judge Josph Wowo, who was removed from office and jailed in the Gambia in 2014 on corruption charges (allegedly because he was attempting to prosecute a corruption case) (Rickard 2019).

The judiciary has recently made decisions against the government. For instance, the Supreme Court recently ruled against a loan scheme in the national budget aimed at personally benefitting members of parliament and parliamentary staff (Cham 2021). Whether this is an indication of growing independence remains to be seen.

Despite recent improvements, there are still significant legacy issues in the Gambia’s judiciary. One of the substantial problems is limited access to justice for many Gambians who face financial constraints. State-funded legal support is limited, and many free legal aid systems are predominantly available only in the capital of Banjul. The government has introduced the Legal Aid Act, which could potentially strengthen access to justice in the Gambia. However, there are significant resource constraints in implementing the act (Gray 2018).

Security sector and security sector reform

The transformation of the Gambia’s security sector has been an indispensable element of transitional justice and a main pillar of the country’s National Development Plan. The stakes are high, as security sector institutions are widely distrusted and historically acted as enforcers of the Jammeh government’s most repressive policies (see ISSAT 2019). Some speculate that the military still has many Jammeh loyalist elements and that these factions have the potential to create political instability (Freedom House 2020).

U4 Anti-Corruption Helpdesk

In 2017, the Senegalese general in charge of the ECOWAS Mission in the Gambia (ECOMIG), which is an ongoing military intervention launched by ECOWAS when Jammeh refused to leave office, claimed that these factions in the army were in contact with Jammeh and constituted an active threat to the Barrow government (Shaban 2017).

Security institutions are themselves victims of corruption (Mutangadura 2020: 2). They were deliberately kept weak, uncoordinated and unprofessional in order to make their integration into Jammeh's patronage networks easier (Jagger 2020). The different security sector institutions were often kept in the dark about each other's activities and rarely had a clearly formulated strategy or mandate other than to do the bidding of the regime (Jagger 2020).

Security sector reform (SSR) in the Gambia encompasses eight institutions, including the police, the army, the intelligence agencies and the fire departments. The objective of reform has been to promote civilian control over the security sector and to ensure that the security sector complies with the rule of law and human rights minimum standards. Security sector reform is one of the areas with the highest levels of support from the international community, with both the EU (via a state-building contract) and a number of member states' agencies engaging in SSR-programming (ISSAT/DCAF 2019). The SSR process is led by a SSR Steering Committee, headed by the Ministry of Justice and the National Security Council (Mutangadura 2020: 6).

However, the reforms have been progressing slowly. Strategic coordination has been lacking due to the slow rollout of the National Security Policy and Strategy, as well as high turnover in responsible ministries and the various security institutions (Mutangadura 2020: 16). The lack of government leadership on SSR has made it difficult

for donor agencies to implement programmes and projects that rest on government priorities. This lack of coordination has led to a number of weaknesses in the process. More importantly, the lack of a new constitution to replace the one from 1997 remains a key obstacle to effective SSR (Mutangadura 2020:17).

With that said, SSR has never been an easy process, and there have indeed been some important gains in the Gambian security sector. In particular, a number of civilian oversight bodies have been established and the Intelligence Service has been restructured to make abuses like those in the past more difficult (Mutangadura 2020: 17).

Private sector

According to the US State Department's Investment Climate Statement (2020), the Gambia's investment policies are relatively friendly, with few restrictions to foreign ownership outside of the defence industry and generally transparent regulations for foreign investment. However, the Gambia's Investment and Export Promotion Agency does not always have the regulations to implement existing provisions effectively (US Department of State 2020). The Gambia has a consumer protection agency that is mandated to eliminate unfair advantages from the market. However, foreign firms have reported corruption as obstacles to foreign direct investment (US Department of State 2020).

On the World Bank's Ease of Doing Business Index, Gambia performs relatively poorly, with a rank of 155. That said, the Gambia has seen a marked improvement on a number of indicators, with substantial improvements in the administrative procedures, time and cost of starting a business (World Bank 2020b). The Gambia underperforms when it comes to Ease of Doing Business' corporate transparency index. The Index, which scores

U4 Anti-Corruption Helpdesk

countries' rules on transparency of ownership stakes, audit rules and senior management salaries, gives the Gambia a score of 0 (on a 0–7 scale). This is low compared to the Sub-Saharan average of 1.5 (whereas the mean for OECD countries is 5.7). For instance, financial statements are required to be audited by external auditors and should be disclosed publicly. At the same time, beneficial ownership disclosure at a 5% threshold is not required (World Bank 2020b: 35).

Extractive industries and natural resources

While the extractive industries do not make up a substantial part of the Gambian economy, corruption in the sector has, in the past, fuelled local grievances and cost Gambian society a substantial amount of money (Bah 2020). Sand mining has traditionally played some role in the economy, but this has diminished since the license of the Gambia African Mining International Company and the Alhamdulillah Petroleum and Minerals Company (the former beneficially owned by Bazzi and the latter by Jammeh) were officially discontinued in 2017. This followed a major, years-long corruption scandal that cost the Gambian state millions of dalasis in lost tax revenue and royalties (Darboe 2020; see also Rahman 2019: 12 for a description of these events). While sand mining has scaled back, some activities in the sector resumed in 2017 (Darboe 2020).

In the first half of 2020, the extractive sector earned around 23 million dalasis and the expected royalties from the extractive industry stood at 125 million Dalasis (Bah 2020). These numbers are limited in size, but they may also be artificially low due to underreporting (Bah 2020). According to Darboe (2020), a company named GACH Mining has paid substantially fewer royalties to the government than appears to be required in the

licensing agreement. Allegedly, its owner is an associate of Adama Barrow (Darboe 2020).

Anti-corruption campaigners argue that there is still considerable need to organise regulatory and revenue collection systems in a more transparent manner (Bah 2020). For instance, the government could create a database on extractive sites, containing information such as expected revenue (Bah 2020).

Researchers argue the legal framework for increased regulation of the extractive industries is already present; what is needed, at least as the first step, is a stronger and more coherent application of existing laws (Bah 2020). Sources claim that initiatives to collect and disclose information on revenue are indeed underway (Bah 2020). These include a website that provides information on how many resources are extracted annually and what revenue they have generated (Bah 2020).

In addition to domestic natural resource extraction, trafficking in illegally felled rosewood from Senegal remains a substantial issue. Reports suggest that between 2012 and 2020 more than 1.6 million trees were illegally felled in Senegal to be smuggled into, and exported from, the Gambia (Bah 2020). The use of Gambian territory as a transit destination for illegal smuggling rather than legal exports is estimated to have cost the country US\$471 million in revenue (Bah 2020). The involvement of state-embedded actors in this criminal market may undermine effective regulatory responses (Bah 2020). According to the Global Initiative Against Transnational Organised Crime (2020), flora crimes (such as timber trafficking) are the largest criminal market in the Gambia.

U4 Anti-Corruption Helpdesk

Legal and institutional anti-corruption framework

The Gambia has ratified the United Nations Convention against Corruption (UNCAC), the United Nations Convention against Transnational Organised Crime and the African Union Convention on Preventing and Combating Corruption. Furthermore, the Gambia is a party to ECOWAS' Protocol on the Fight against Corruption. However, both the legal and institutional anti-corruption frameworks of the Gambia have yet to fully conform to the standards set out in these treaties and other global obligations.

Legal anti-corruption framework

The Gambia's anti-corruption framework is still a 'work in progress', similar to its status more than two years ago (see Rahman 2019: 13).

The most important pieces of anti-corruption legislation are the Constitution (1997), the Gambia Anti-Corruption Commission Act (2012), the Gambian Criminal Code, the Criminal Procedure Code and the Anti-Money Laundering and Combating of Terrorist Financing Act (2012).

The 1997 constitution, in theory, bans a person convicted of corruption from running for high-level offices such as the presidency (Rahman 2019: 13). However, the constitution has been ignored in practice for most of the last two decades, often due to the ability of regime insiders to amend it with provisions that were not in line with democratic norms (Nabaneh 2020).

Currently, the Constitution of the Gambia is under an extensive review process in the Constitutional Review Committee. The Constitutional Review Committee presented a new draft constitution in

2019 with a series of measures that would strengthen democracy, including more limitations on the executive branch (for example, term limits for the president), regulation of gifts to public officials, political and electoral integrity, establishment of an independent anti-corruption commission and the inclusion of a Bill of Rights (Nabaneh 2020).

In 2020, the Commission tabled the Constitutional Promulgation Bill in Parliament. This would have enabled the ratification of a new constitution in a nationwide referendum (Nabaneh 2020). However, the bill was rejected in the National Assembly. Allegedly, the concerns of the current government had a role to play in this (Nabaneh 2020)

The Anti-Corruption Commission Act (2012) established the Anti-Corruption Commission and sets out punishments for public officials involved in corruption. Public servants found violating the law can receive a prison sentence of up to five years (Larboe 2012). There is little evidence that suggests that the Anti-Corruption Commission has been efficient or successfully carried out its mandate.

In 2017, Barrow expressed an intention to create new legislation that would bring the Gambia's anti-corruption legal framework up to date. One of the first bills was the Anti-Corruption Bill (Rahman 2019). After a little more than two years of drafting, the Anti-Corruption Bill was tabled in the National Assembly in December 2019 (Waan 2021). The bill will create a new national Anti-Corruption Commission and update the 2012 Act. As of March 2021, however, the long-awaited bill is still pending (Waan 2021) in what appears to be its third reading. The fact that lawmakers have not yet passed this critical piece of legislation should be a source of worry.

An important development is the recent approval of the Access to Information Bill by the National

U4 Anti-Corruption Helpdesk

Assembly of the Gambia, which was widely seen as a major milestone towards true democracy in the post-Jammeh era (Media Foundation for West Africa 2021; Gambia press Union 2021).

Another piece of legislation worth mentioning is the Anti-Money Laundering and Combating of Terrorist Financing Act of 2012. The act specified a number of predicate money laundering and terrorist financing offences; and created new requirements for financial institutions, such as the requirement to file suspicious transaction reports (Kargbo 2014).

With regards to anti-money laundering and terrorist financing, the Gambia's last mutual evaluation follow-up report was in 2014. The report highlighted some significant deficiencies and found that the Gambia was either partially compliant or compliant with just 12 of the recommendations (see GIABA, no date). Considering the role of Hezbollah operatives in the political economy of the Gambia under Jammeh, this is not so surprising.

Institutional anti-corruption framework

The Anti-Corruption Commission

The Anti-Corruption Commission was established in 2012 and began operations in 2015. It investigates corruption offences and refers cases to prosecution services. The Anti-Corruption Commission is also responsible for freezing and recovering proceeds of corruption and punishing civil servants found guilty of having engaged in acts of corruption. Moreover, it is responsible for implementing and monitoring corruption-prevention procedures in public institutions and recommending actions in cases where public servants have breached ethical standards (Larboe 2012). The Anti-Corruption Commission does not appear to have a website and it is unclear what

activities, if any, it is currently undertaking. If the Anti-Corruption Bill of 2019 is passed, the country will likely have a new Anti-Corruption Commission.

The Ombudsman's Office

The Gambian Ombudsman was established in 1997. The Office has as its mandate to investigate alleged or suspected mismanagement, rights abuses and corruption by public servants. The Ombudsman's office uses the findings from its investigations to issue recommendations for the appropriate corrective actions. It also has the right to recommend corrective actions at a more strategic level, in order to address the underlying issues that led to the alleged abuse in the first place.

During the previous regime, the Ombudsman was largely unable to carry out its mandate. However, the new government has guaranteed the institution better access and more freedom from interference (Rahman 2019). In recent years, the Ombudsman's Office has opened an [online complaint form](#), which should make it easier for members of the public to file complaints against institutions.

The Financial Intelligence Unit

Gambia's Financial Intelligence Unit was established in 2014. The FIU is responsible for risk-based supervision, investigates money laundering and terrorist financing crimes and advises the government on AML-CFT policies. It is currently the beneficiary of a number of international capacity-development programmes, including ones funded by the African Development Bank. Donors such as the Government of Germany have also lent support to the Gambian FIU (Sowe 2021).

National Audit Office

The National Audit Office is the supreme audit institution of the Gambia. Established by the

U4 Anti-Corruption Helpdesk

Overview of corruption and anti-corruption in the Gambia

National Audit Office Act (2015), it works to ensure that public spending is used for the intended purposes and is accountable to Gambian citizens. It is supposed to publish annual reports for the public. However, the last publicly available audit report is from 2016. The Auditor General is appointed by the president (NAO 2021). However, the institution does seem to act with political independence and has been known to criticise the government for not reacting to recommendations in its reports (see, for instance, Bah 2020b).

The Truth, Reconciliation and Repatriations Commission (TRRC)

While not an anti-corruption institution per se, the TRRC is tasked with aiding the transitional justice process in the Gambia. This includes investigating and mapping the extent of human rights violations committed during Jammeh's rule and advancing national reconciliation, through, for instance, reparations and prosecutions (TRRC no date).

Other stakeholders

Civil society

A year after the political transition, CIVICUS (2018) reported that the Gambia's civic space ratings improved from 'repressed' to 'obstructed', as the new government opened space for civil society and substantially improved the human rights context in the country. Overall, the dialogue between civil society organisations (CSOs) and policy-makers has improved substantially in recent years.

The freedoms of expression, assembly and religion have all expanded significantly since the regime change in 2017 (Freedom House 2021). Human rights defenders in the Gambia have reported that the new government has embraced a more open civic and political space. However, the freedoms of

expression and assembly remain limited because of lack of reforms and the Public Order Act (Saidykhan 2020).

There are a number of civil society organisations with a presence in the Gambia that engage in anti-corruption advocacy. For instance, [Gambia Participates](#) is the leading Gambian NGO working on government transparency and anti-corruption measures through advocacy, grass-roots engagement and policy dialogue. One of its recent achievements is a victory in the Supreme Court, where it [challenged](#) the constitutionality of a loan scheme in the national budget for the personal benefit of parliamentary members and staff (Cham 2020).

The [Centre for Research and Policy Development-The Gambia](#) is an independent non-profit organisation committed to promoting inclusive democratic governance in the Gambia. Its initiatives include Gambia Watch, which seeks to bring legislative issues to the doorstep of the citizens, and Gambia Decides, which promotes the integrity of the Gambia's electoral process. It also [teamed up](#) with Gambia Participates in the Supreme Court case challenging the parliament's decision to create a loan scheme.

[Africa in Democracy and Good Governance](#) is another non-governmental organisation that fosters and promotes democratic principles and good governance in the Gambia. It is involved in activities pertaining to democracy, good governance and human rights.

The [African Centre for Democracy and Human Rights Studies](#) is an independent non-profit regional human rights NGO based in the Gambian capital Banjul. It has worked on various issues related to governance and human rights in the Gambia and elsewhere in Africa.

U4 Anti-Corruption Helpdesk

Overview of corruption and anti-corruption in the Gambia

International NGOs have also started to increase their activities in the country. For instance, the National Democracy Institute has been working with the government and civil society actors to increase transparency and accountability in the government. Its current projects include working with the Office of the President in the Gambia to provide more information to citizens about its priorities, policies and actions; strengthening civil society capacity to observe elections; and facilitating peacebuilding and political engagement (National Democracy Institute 2021).

However, CIVICUS reports have shown that the momentum of civil society actors has recently been slowing down. For instance, in 2019, the police reportedly used significant force to disperse citizens protesting the alleged killing of a vendor by a police officer (CIVICUS 2019). Another protest on 26 January 2020, which called for the new president to step down, reportedly turned violent with 137 protesters arrested, dozens injured and two radio stations suspended (CIVICUS 2020a).

On 17 June 2020, a country representative for Westminster Foundation for Democracy, Madi Jobarteh, was detained and charged with spreading misinformation, causing an outcry among civil society actors (CIVICUS 2020b; Jeffang 2020). The charges were later dropped after a meeting between the Gambia Police Force, the National Human Rights Commission, the Gambia Bar Association and the Association of Non-Governmental Organisations (CIVICUS 2020b).

Media

The current government has promised to create a more favourable environment for independent media organisations and journalists. Evidence suggests that it has kept that promise for the most part, lifting media monopolies and ending the criminalisation of defamation (Reporters Without Borders 2020a). The media landscape has

diversified since Jammeh's departure as the country now has four daily newspapers, a tri-weekly, 33 radio stations, six TV channels and many news websites (Reporters Without Borders 2020b).

On Reporters Without Borders' Press Freedom Index, Gambia has risen consistently in recent years. In 2015, the Gambia ranked 151 out of 180 countries in terms of press freedom, and it significantly improved to 87 out of 180 countries in 2020. Media houses such as [Malagen](#) have also been able to freely report on government corruption, such as allegations of COVID-related corruption involving the office of the president (Darboe 2021c) and how 'investors' access the executive using corrupt means (Darboe 2020d).

In 2020, the Gambian parliament approved a bill that granted a subsidy of 15 million dalasi (about US\$300,000) to print media and radio stations in the country. A separate subsidy was also planned for TV channels. According to Reporters Without Borders (2020b), this was the first time since 1965 that the media received such assistance from the government. At the same time, however, repressive media laws introduced by the former regime on defamation and criminal defamation are yet to be repealed.

The current legislative framework of the Gambia does not adequately guarantee press freedom and does, to some extent, enable the government to suppress the media (Reporters Without Borders 2020a). Media freedom has been violated on a number of occasions since 2017, and journalists in the Gambia report having experienced a wave of harassment and assault by supporters of the government (Jeffang 2020). In 2020, two radio stations were closed for over a month and two journalists were arrested, possibly for covering an opposition rally (Reporters Without Borders 2020a). This quashed the dreams of hopeful

U4 Anti-Corruption Helpdesk

journalists who, in 2018, were talking of a coming ‘...era of press freedom’ (Muvunyi 2018). The President of the Gambia’s Press Union has said that recent violations constitute a ‘...big step backward’ (Bajong in Mwakideu 2020).

The latest Afrobarometer (2021), showed that more than eight in ten Gambians think the media is “completely free” (46%) or “somewhat free”(36%) to report and comment on the news without censorship or interference by the government. More than two-thirds (68%) also think that the media should be free to publish any views without government control. However, the majority think that the government should be able to limit or prohibit the spread of false news or information (85%), hate speech (84%) and information or opinions that criticise or insult the president (76%). About 42% of respondents said that they approve of restrictions against information or opinions that the government disapproves of (Afrobarometer 2021).

Conclusion

The political transition in 2017 was seen as the beginning of a new journey in the Gambia. While the new government has made an encouraging start towards good governance, many of its promises are still to be realised. Important draft laws such the Anti-Corruption Bill and the draft Constitution are yet to be passed. Grand corruption committed during Jammeh’s era has been investigated and documented through the Janneh Commission, but it is still not clear to what extent it will be fully addressed. Some notable developments include increased judicial independence and expansion of civic space. Though the new government initially had a good start with regards to civic and media freedoms, there are signs of backsliding as evidence show increased incidences of ill-treatment of civil society activists and journalists.

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The U4 Anti-Corruption Resource Centre shares research and evidence to help international development actors get sustainable results. The centre is part of Chr. Michelsen Institute (CMI) in Bergen, Norway – a research institute on global development and human rights.

www.U4.no
U4@cmi.no

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