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WORLD PRESS FREEDOM DAY STATEMENT

GPU Urges Gambia Government to Expedite Media Law Reforms

Fajara, 3 May, 2022 – Every year, 3rd May is observed as a day to remind governments and other stakeholders of the need to respect their commitment to press freedom. It is a day for media workers globally to reflect on issues of press freedom and professional ethics. The day is also set aside to support media that are oftentimes targets of violation and abuse.

This year's World Press Freedom Day theme "Journalism under digital siege," spotlights the multiple ways in which journalism is endangered by surveillance and digitally-mediated attacks on journalists, and the consequences of all this on public trust in digital communications. The theme also looks at how big data collection and Artificial Intelligence (AI) impacts journalism, freedom of expression and privacy, and offers an opportunity to discuss and deal with digital inspired surveillance, trolls and privacy violations against journalists and their sources.

In the context of the press freedom situation in The Gambia, journalists still operate under the threat of digital surveillance and digital intrusion due to the existence of an authoritarian legal and technological framework, put in place by the former administration, that still allows unchecked government surveillance of Information Communication Technologies. For example, Article 138 of the Information Communications Act gives sweeping powers to national security agencies and investigative authorities to monitor, intercept, and store communications in unspecified circumstances while also giving the national utilities regulator, PURA, the authority to "intrude communication for surveillance purposes," all without judicial oversight.

The Attorney General and Minister of Justice, had in 2019, introduced amendments to these provisions of the ICA, in order to provide judicial oversight for the exercise of these surveillance powers, but the National Assembly rejected these proposed amendments, to the dismay of many press freedom and free speech campaigners including the Gambia Press Union, which had fervently advocated for these amendments. As a result, unregulated surveillance of citizens, activists, and independent journalists continued, reaching peak notoriety in 2020, when human

rights activist Madi Jobarteh alleged that he and others were being targeted by security agencies with surveillance, including of their communications devices, after he was charged with "false information and broadcasting" by the Inspector General of Police in accordance with Section 181A (1) of the Gambian criminal code, for statements made in an interview to a media outlet during a Black Lives Matter demonstration in June 2020.

While the scope of the government's current technical surveillance capabilities remains unknown, it still remains that the government can, when it deems necessary, to arbitrarily exercise its surveillance powers to stifle freedom of expression and press freedom. It is thus incumbent that proposed amendments to the ICA, especially provisions that deal with judicial oversight for the exercise of surveillance powers, be reintroduced to the newly elected parliament, for deliberations on its necessity and importance to hopefully facilitate its amendment.

Further, The Gambia does not currently have a data protection legislation, despite being a signatory to the 2010 Economic Community of West African States ('ECOWAS') Supplementary Act on Personal Data Protection within ECOWAS. This is vital legislation especially with regards to the protection of reporters, whistleblowers and dissidents. The ECOWAS Act requires each ECOWAS Member State to establish a data protection authority that will be responsible for ensuring that personal data is processed in compliance with the provisions of the ECOWAS Act. This authority must also establish whistleblowing procedures to provide safe channels for or other informants to report fraud, corruption or serious wrongdoings in organizations.

"Journalists, reporters, whistleblowers and dissidents are sometimes the subjects of abuse, insults and threats to their personal safety by political and non-political actors both online and offline, because of their work and activities," the GPU Secretary General, Modou S. Joof, said. "It is important that standard procedures for the protection of their data and identity are established in law."

In light of the passing of the Access to Information Act in 2021, the GPU in line with the theme of this day, is calling on the government to build the necessary digital infrastructure within the government to ensure the operationalisation of the Access to Information Act. A good number of government ministries, departments, local government authorities, parastatals and other entities continue to lack working and up-to-date official websites through which vital information about their work could be sourced, nor do they have official contact details such as an official email to facilitate the request of information. As such, it is important that the government puts these digital structures in place to facilitate the operationalisation of the Act.

The GPU also seeks to remind the government on this day that the long-awaited reforms of repressive media laws in The Gambia continue to drag four years on. The Media Law Review Committee's final report submitted to the Ministry of Information and Communications in May 2018 recommended for the review and amendment of the following legislations:

1. Information and Communications Act of 2009
2. Criminal Code of 1933
3. Indemnity Act of 2001

4. GRTS Act of 2004
5. Telegraph Stations Act of 1990
6. Officials Secrets Act of 1922
7. Newspaper and Broadcasting Stations Act of 1944

All these laws are recommended for review because they have problematic and disturbing provisions that are not in line with international norms, standards and democracy. Four years on, none of these laws have been successfully amended. A number of Bills seeking to repeal the laws have been in parliament, gathering dust while no concrete steps have been taken by the government towards repealing or amending the rest of the anti-free press laws.

“We wish to remind the government that it is the responsibility of the state to guarantee journalists’ safety and combat impunity and enable the media to carry out its work independently and without interference,” Muhammed S. Bah, President of the GPU said. “This is in light of recent comments and actions by both public figures and private citizens (online and offline) targeting members of the media.”

Finally, in commemoration of this World Press Freedom Day, we wish to pay tribute to the fallen heroes of the Gambian media. These are those who sacrificed their lives and livelihoods for the freedom and development of Gambian media in particular, and an inclusive and democratic Gambia based on respect for human rights and dignity.

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