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## CIVIL SOCIETY, ELECTIONS, DEMOCRATIC RESTORATION AND CONSOLIDATION IN THE 'NEW GAMBIA'

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### 1 Introduction

Civil society remains an instrumental player in elections and democratic discourse in Africa. This is due to the fundamental role of public accountability and transparency that CSOs play in the governance process of any democratic setting. Elections serve as avenues for civil society's open and effective participation in such democratic environments. However, Bruce Gilley argues that a healthy democracy goes beyond the conduct of elections; focus now shifts to supporting civil society groups in strengthening effective legislative processes and broader participation in democratic governance.<sup>1</sup> In line with this argument, Alex Thomson credits CSOs as crucial actors, needed in the democratic consolidation of Africa, drawing inspiration from their unequivocal stance during the period of 'third-wave' democratisation in the early 1990s (post-Cold War Africa), leading to the holding of multi-party elections across the continent.<sup>2</sup> Countries where CSOs' participation yielded positive results during this period are briefly discussed later in the chapter.

When the Cold War antagonistic powers (the United States and the Soviet Union) ended their bipolar rivalry, with the former proclaimed the 'champion' of the confrontation, aid recipient African countries were presented with both economic and political conditions before any form of financial assistance could be granted. Economically, while governments were required to implement the well-known Structural Adjustment Programmes (SAPs), politically, they were required to democratise the political space by adopting multi-party politics in place of one-party systems.<sup>3</sup> The influential role of Bishops Desmond Tutu and James

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1 B Gilley 'Civil society, elections and democracy' <https://www.web.pdx.edu/~gilleyb/CivilSocietyDemocracyElections.pdf> (accessed 1 September 2019), in different parts of the world, Gilley argues that the role of civil society is quite essential for democratic consolidation.

2 A Thompson *An introduction to African politics* (2010).

3 As above.

Chiona in South Africa and Malawi in challenging apartheid and Hastings Kamuzu Banda's rule, respectively, have been well recognised.<sup>4</sup> From churches to women groups, the media to professional bodies, and human rights organisations, CSOs are indispensable in ensuring effectiveness and efficiency in democratic governance. Thus, they are key in ensuring political pluralism and wider participation in decision-making.

In The Gambian context, little is known about the role and effectiveness of CSOs in the country's political space. Arguably, this could be explained by the fact that the country did not experience a transition to democracy in the post-Cold War democratisation era. Instead of continuing as a beacon of democracy on the continent, The Gambia turned into a military dictatorship under Yahya Jammeh where democracy, in its liberal form, was eroded from 1994 to 2016. Essentially, this period marked a moment of setback for the country's democracy. The end of tyranny in 2016 marked the moment of restoration. Albeit, the Jammeh regime continued the repression of political opponents, a more liberalised political space came into being during the 2016 presidential election through CSO participation.

As 2016 presented a unique experience in terms of CSO activities in The Gambia's election history, this chapter interrogates their significant role in both the restoration of democracy and efforts towards its consolidation. Although, CSOs set up by Gambians in the diaspora, referred to as 'diaspora CSOs' do exist and played a crucial part in the December 2016 election in many ways, the focus of this chapter is on home-based CSOs. In fact, as noted by Sait Matty Jaw, diaspora CSOs are an extension of home-based CSOs whose primary goal was to see regime change which would lead to the restoration of democracy in The Gambia.<sup>5</sup> While it may be apt to argue that, the holding of presidential election in 1996 under a military-turned-civilian leadership after the two-year transition meant the restoration of democracy, it would make more sense to argue that democracy in its liberal form was eroded throughout the 22-year rule of Jammeh. In this regard, this chapter conceptualises the term restoration in the context of the 2016 election, implying that the aftermath of the December 2016 poll marked the actual moment of democratic restoration in The Gambia's political history.

4 As above.

5 SM Jaw 'Restoring democracy in The Gambia? An analysis of diaspora engagement in Gambian politics' Master's thesis, University of Bergen, Belgium, 2017.

## 2 Conceptualising civil society organisations as key stakeholders in democratic consolidation

A conceptual understanding of democratic consolidation brings into context the idea that elections are a necessary but not sufficient condition for democracy. It reveals that for democracies to be consolidated, they need to mature, survive long, and be resistant to a return to autocracy. However, this remains a major challenge for transitional democracies in the so-called developing world, especially Africa. There exists what is called a 'provisional reverting' to autocracy in such transitional democracies within the first five years.<sup>6</sup> To corroborate this argument, Joseph Siegle observes that 65 per cent of countries that went through democratic transition in Africa had experienced an episode of regression. This, he argued, is due to the norm of 'big-man rule' without democratic accountability,<sup>7</sup> an area civil society could correct. The absence of robust institutions, including CSOs, is arguably, a contributing factor to the lack of progress and even regressions that transitional democracies experience.

Over the past two decades, the notion of civil society has attracted attention in political and development discourses. This attraction could be attributed to the successive spread of democratisation, known as the 'third-wave democratisation' in the modern world antiquity.<sup>8</sup> From Latin America, Central and Eastern European countries (CEECs) to all 'third-world' countries, including Africa, the moment of political change through democratisation was experienced with civil society at the forefront. Their role became noticeable when political scientists and practitioners became aware that the existence of strong state institutions and policy initiatives are necessary but not always a guarantee for 'a high standard of democratic governance'. The complementary role of CSOs is necessary; thus, they are recognised as key to sustainable democratic governance.<sup>9</sup>

Africa's democratisation in the post-Cold War era experienced major challenges, such as the existence of untrusted opposition, weak economies,

6 'Gambia's road to democratic reform' *Africa Center for Strategic Studies* 24 April 2018 <https://africacenter.org/spotlight/gambia-road-to-democratic-reform/> (accessed 3 May 2019).

7 J Siegle 'Overcoming Africa's democratic setbacks' (2013) <https://africacenter.org/experts/joseph-siegle/overcoming-africas-democratic-setbacks/> (accessed 12 May 2019).

8 A Arko-cobbah 'The role of civil society and good governance: Challenges facing public libraries in South Africa' (2005).

9 As above.

and ethnic tension, among others.<sup>10</sup> Civil society has played a part in addressing some of these challenges and aiding democratic transitions in different African countries, including Zambia and Malawi, among others.<sup>11</sup> This does not, however, imply a total absence of constraints on the side of CSOs' struggle in democratising the political space, especially in consolidating democratic gains.

The modern notion of civil society closely equates to the Western notion, which includes the media, professional groups, trade unions, and human rights and gender groups. Apparently, a newer form of civil society group is believed to have appeared which, includes state actors such as parliamentarians and local councillors who play oversight functions in ensuring government accountability, and bringing development closer to the people through popular participation, required in a democratic setup. They are called the 'hybrid civil society organisations'.<sup>12</sup> From the media to religious groups, trade unions, professional bodies, human rights groups, amongst others are key in ensuring democratic governance.

Fundamentally, the media serves as an information tool, hence it can unite people against a government of tyranny.<sup>13</sup> In this regard, the media ensures that irresponsibility on the part of the government is exposed which could trigger questions from the citizenry. To substantiate this argument, Thomson suggests that the media can play the role of disseminating information to the people,<sup>14</sup> which could serve as a way of exposing an inept and a corrupt government. On its role in democratic consolidation, Joseph Turay states.<sup>15</sup>

The media should ensure that there is a broad-based participation so that all subcultures and identities are able to express themselves in the public sphere. Every group should be able to express itself in the public sphere and feel that

10 Thompson (n 2).

11 As above.

12 J Turay 'The role of civil society in promoting democratic governance <https://unimak.edu.sl/wp-content/uploads/2021/06/THE-ROLE-OF-CIVIL-SOCIETY-IN-PROMOTING-DEMOCRACY-AND-GOOD-GOVERNANCE-1-2.pdf> (accessed 10 May 2019).

13 As above.

14 Thompson (n 2).

15 Turay (n 12).

its identity is respected and should respect the identity of others and learn from others.

The role of religious groups in democratic consolidation cannot be completely ignored. Mosques and churches are essential in this regard, in terms of providing moral challenge to the government. As pointed out earlier, historically, the church under Bishop Desmond Tutu played an important role in the fight against Apartheid in South Africa. In fact, the South African experience witnessed the participation of a mass civil society movement which comprised civic associations, student movements, trade unions, and church-based groups in the anti-apartheid resistance struggle.<sup>16</sup> In Malawi, it was no different as Bishop James Chiona and the church for the first time challenged the rule of Hastings Kamuzu Banda during the 'third wave' democratisation struggle.<sup>17</sup>

Trade Unions occupy center-stage not only in advancing the rights of their workers, but also in holding a government to account which is critical in any democratic dispensation. In fact, trade unions can metamorphose into political parties and contest elections as was evident in Zambia when the Zambian Congress of Trade Unions (ZCTU) was transformed into the Movement for Multi-party Democracy (MMD) led by Frederick Chiluba and contested and won the first democratic elections organised in post-Cold War Zambia under Kenneth David Kaunda.<sup>18</sup> Trade Unions in Mali and Niger were equally important in the democratisation processes of these two countries.<sup>19</sup>

Human rights groups, campaigners, and defenders, including women's rights activists are few of the most important civil society participants that can hold a government to account by ensuring that the rights and freedoms of vulnerable groups are respected as essential components of good governance, human rights and democracy. With these entities in place, democracy is likely to be consolidated. Larry Diamond identifies some key functions of civil society in democratic building and consolidation. These include, but are not limited to, checking the power of the state which helps in promoting democratic accountability and fighting corruption; preventing a group of people from becoming uncontrollable in the exercise of political power; promoting political participation among

16 L Fioramonti & A Fiori 'The changing roles of civil society in democratisation: Evidence from South Africa 1990-2009 and South Korea (1987-2009)' (2012).

17 Thompson (n 2).

18 As above.

19 As above.

the citizenry; as well as recruiting new political leadership.<sup>20</sup> Furthermore, the protection of civil liberties as well as the rights of minorities are prerequisites for democratic consolidation, an important role CSOs play.<sup>21</sup> Andrea Cassani and Luca Tomini argue in their work that:<sup>22</sup>

[C]ivil liberties refer to the non-strictly political dimension of life. Civil liberties in a country are restricted by any measure that compromises the physical integrity of citizens, the principle of equality before the law, individual and personal autonomy rights, religious freedom, academic freedom, minorities' rights, the freedom to form civil society organisations and their independence.

Elsewhere on the Africa continent, Ghana witnessed advocacy on the rights of indigenes which dates to the colonial era through the efforts of groups such as the Fante Confederation (1871) and the Aborigines Rights Protection Society (ARPS/1890). This continued up to 'post-independence struggles against undemocratic political regimes and military rule' including that of JJ Rawlings. Overall, CSOs have over the years been key players in Ghana's democratisation process.<sup>23</sup>

While the effective participation of CSOs in Africa's democratisation process is noteworthy, there remains a major challenge in keeping them alive and robust in post-transition periods. Mainly, this is due to the possible depreciation of political energies in the immediate aftermath of political transitions which is associated with the dynamics found in the democratisation process. Apparently, civil society do not necessarily perform well in such post-transition periods,<sup>24</sup> at least in the first five years which contributes to democratic backsliding. The depreciation of political energies is largely due to the possible co-optation of civil society leaders by politicians through the award of leadership roles *or* positions in government, with the intention to silence them – a strategy that could easily weaken CSOs' role in the democratisation process.<sup>25</sup>

20 L Diamond, 'Rethinking civil society: Towards democratic consolidation' (1994) 5 *Journal of Democracy* 4.

21 TP Botchway 'Civil society and the consolidation of democracy in Ghana's Fourth Republic' (2018) 4 *Cogent Social Sciences* (2018) 1.

22 A Cassani & L Tomini 'Post-cold war autocratisation: Trends and patterns of regime change opposite to democratization' (2019) 49 *Italian Political Science Review/Rivista Italiana di Scienza Politica* 121 at 121-128.

23 Botchway (n 21).

24 M Bratton 'Civil society and political transition in Africa' (1994) 11 *IDR Reports* 11.

25 As above.

### 3 CSOs in The Gambia: From inactive to active participation in democratic governance

The Gambia was considered to have sustained one of the longest surviving multi-party democracies in Africa, when many other countries on the continent built and sustained one-party states, from the post-independence era to the end of the Cold-War rivalry.<sup>26</sup> A successful military coup on 22 July 1994 led by Yahya Jammeh disrupted the country's political system, with democracy hijacked, the institutions of governance stifled, the media muzzled, the Constitution abrogated and parliament suspended.<sup>27</sup> The coup marked a 'U-turn' in Gambian politics which arguably affected the country's strive to democratic consolidation.

The establishment of an Independent Electoral Commission (IEC) and a National Council for Civic Education (NCCE) by the Jammeh administration were positive moves towards democratic governance. However, throughout his rule, civil society remained inactive in ensuring democratic accountability. In fact, the absence of robust and vibrant CSOs was a manifestation of the lack of transparency and accountability in Jammeh's government which it had vowed to uphold and promote during the early days of the coup. The media in this regard became most vulnerable to the censorship on civil society.<sup>28</sup> Media houses established by Gambian dissidents in the Diaspora became the alternative press forum, exposing the transgressions of the regime. They would later become targets of Jammeh and his media-unfriendly regime. *The Freedom Newspaper*, *Gainako*, later *The Fatu Network*, among other entities, have been in the forefront of mounting pressure and exposing top government secrets for public consumption.<sup>29</sup>

Contesting his first election in 1996 as a 'soldier-turned civilian president', Thomson notes that Jammeh commanded 83 per cent of media coverage, dedicated to his campaign, leaving the opposition at a distant disadvantaged position.<sup>30</sup> Jammeh won the polls with 55 per cent.<sup>31</sup>

26 D Perfect 'Politics and society in The Gambia since independence' (2008) 6 *History Compass* 426.

27 A Saine *The paradox of third wave democratization in Africa, The Gambia under AFPRC-APRC from 1994-2008* (2009).

28 A Saine 'The Gambia's deepening governance and economic crises: 1994-2015 in S Ndongso *Recent political developments in West Africa* (2015).

29 As above.

30 Thompson (n 2).

31 Independent Electoral Commission 1996 Elections Results, The Gambia.



Arguably, the power of incumbency in the form of monopolisation of state resources and institutions gave him the opportunity to secure victory. To this end, democratic accountability was absent in the wake of silent CSOs. There was no sign of active civil society participation in promoting competitive elections that could prevent a one-party dominance.

Although, The Gambia under Dawda Jawara was considered a democracy, his Peoples' Progressive Party (PPP) dominated the political scene. In fact, there existed a degree of political desertion from the main opposition United Party (UP) to the PPP, which could be largely explained by inducement from the latter.<sup>32</sup> This arguably, marked the beginning of co-optation in Gambian politics. The absence of a strong civil society partly was part of the problem because consolidation was not achieved throughout the PPP's 30-year rule under Jawara, extending to the 22-year rule of the AFPRC/APRC under Jammeh. Two-turnover[s] of government is considered by Samuel Huntington as cited in Thomson, a necessary condition for democratic consolidation.<sup>33</sup> His argument suggests that consolidation will be far from reality if governments cannot be replaced through popular democratic elections.

As post-Cold War era witnessed the proliferation of multi-party constitutions on the continent under the influence of the famous 'third-wave' democratisation, the task became the need to consolidate the democratic gains. The Gambia, being among the few democracies at the time, should have led the other fledgling democracies in moving towards consolidation. However, this was never a reality. Consolidation therefore became a challenge for those moving towards democratisation, while The Gambia had to start the battle to restore the eroded democracy which was far from reality under the military government.

Building democratic institutions (institutional reforms) and democratic politics highly remain key challenges in The Gambia's transitional journey from democratic restoration to consolidation. However, such challenges are not peculiar to the country; they remain common challenges for transitional democracies on the continent. The Gambia under Yahya Jammeh was an example of what scholars term as 'feckless democracy', 'controlled democracy', 'illiberal democracy',

32 SS Nyang 'Politics in Post-Independence Gambia' (1975) 8 *Current Bibliography of African Affairs* 113. The late Sulayman Nyang was an Assistant Professor of Government, Acting Director of African Studies and Research Programme at Howard University; he was among the few Gambian researchers who wrote on Gambian politics.

33 Thompson (n 2).



and ‘competitive authoritarianism’.<sup>34</sup> In this sense, semi-competitive elections are held, but without the presence or active participation of robust civil society to promote free, fair and transparent elections, and more importantly, democratic accountability. While Gilley argues that this has evidently existed in post-communist countries like Belarus and Kyrgyzstan where democratic revolutions have failed, it is noteworthy that African countries are not exceptions to this.<sup>35</sup> Thomas Botchway notes that, to ensure the compliance and commitment of ‘major political players’ to the political rules and norms, democratic institutions should be lucid and need a degree of independence.<sup>36</sup>

A proper understanding of the concept of CSOs requires an exploration of their nature. Since no clear-cut definition exists (a contested concept) – subjecting it to different explanations, the civil society banner in The Gambia is wide; it covers Non-governmental Organisations (NGOs), Charity Based Organisations (CBOs) and Faith Based Organisations (FBOs).<sup>37</sup> Faith-based groups in The Gambia exist to strengthen their membership base; hence they are religiously motivated.<sup>38</sup> Essentially, CSOs are considered integral players in the realisation of sustainable development in The Gambia through involvement in the economic and social fabric of the country.<sup>39</sup> It is essential to provide a broader picture of CSOs in The Gambia.

However, to avoid deviating, since focus is on governance and democracy, there exist several CSOs in The Gambia that work in areas of promoting human rights, democracy and good governance in a variety of ways. Prominent civil society groups operating in The Gambia include, among other entities, the West Africa Network for Peacebuilding, ActionAid International The Gambia, The Association of Non-Governmental Organisations (TANGO), Gambia Bar Association, National Youth Parliament, Activista The Gambia, Gambia Press Union, and the Child Protection Alliance. Conscious of the political environment under the military-turned-civilian dictatorship of Yahya Jammeh, claim

34 Cassani & Tomini (n 22).

35 Gilley (n 1).

36 Botchway (n 21).

37 ‘Civil society contribution towards achieving the MDGs in The Gambia’ (2005) [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjf9f-pod\\_2AhXGMMMAKHUXjAlwQFnoECAMQAQ&url=https%3A%2F%2Fwww.gbosdata.org%2Fdownloads-file%2Fcivil-society-contribution-towards-achieving-the-m-1&usq=AOvVaw1gGs6-\\_AJTQG8i5\\_muX7aF](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjf9f-pod_2AhXGMMMAKHUXjAlwQFnoECAMQAQ&url=https%3A%2F%2Fwww.gbosdata.org%2Fdownloads-file%2Fcivil-society-contribution-towards-achieving-the-m-1&usq=AOvVaw1gGs6-_AJTQG8i5_muX7aF) (accessed 5 May 2019).

38 As above.

39 As above.

cannot be made about the active participation of these groups in ensuring democratic governance in The Gambia. However, those that participated effectively in The Gambia's unprecedented 2016 elections, have grown in stature and influence in post-Jammeh Gambia, and could be counted on in ensuring democratic consolidation in the 'new' Gambia.

### **3.1 Civil society participation in The Gambia's 2016 election**

The focus of civil society coalition in The Gambia's pre-2016 election era was on the campaign. The monitoring of the political environment was centred on issues of political intolerance, hate speeches as well as non-compliance to campaign code of conducts and ethics by political parties, which are commonly experienced during political campaigns.<sup>40</sup> Cognisant of the fact that election campaigns are prone to violence and political intimidation, and the crucial nature of the 2016 poll, civil society coalition considered it prudent to strategise means of ensuring peaceful and violent-free campaigns throughout the 2016-2018 elections cycle.

Unlike previous elections, the 2016 campaign witnessed an atmosphere of calm and peace. However, this did not mean a total absence of confrontations between rival political factions, mainly Jammeh's Alliance for Patriotic Reorientation and Construction (APRC) and the United Democratic Party (UDP). The two camps have often been involved in clashes that were worrisome as December 1 loomed. Major incidents of violent clashes would later be experienced in the 2017 Parliamentary polls and subsequently in the 2018 Local Government elections.<sup>41</sup> Leading up to the 2016 elections, Jammeh himself had warned against any form of political violence, that he would not allow anyone to 'destabilise' the country in the name of seeking political office, but equally urged his supporters to maintain a peaceful political environment.<sup>42</sup>

As Gambians prepared for the crucial December 2016 presidential election, the need for a conducive political environment that would accommodate the active participation of CSOs was very necessary. As indicated in the onset of this chapter, the role of CSOs in democratic governance is not limited to pre and during election periods. Post-election follow-ups are crucial in ensuring democratic practice. While many

40 CSO Coalition on Elections – The Gambia Preliminary Statement – 6 April 2017, National Assembly Election.

41 West Africa Network for Peacebuilding Monthly Bulletin May 2018.

42 'Electoral violence is like a raging "bushfire" Jammeh urges peaceful campaign' *Africa news* 18 November 2016 <https://www.africanews.com/2016/11/18/electoral-violence-is-like-a-raging-bushfire-jammeh-urges-peaceful-campaign/> (accessed 27 February 2021).

CSOs have utilised the 2016 presidential election environment to play active role in what was described as an ‘unprecedented’ election in The Gambia’s political history, few have been prominent on the stage in pre, during, and post-election periods. These organisations continue to play the conventional role of CSOs, especially in post-electoral period-ensuring democratic accountability in a variety of ways.

### **3.2 CSO engagement in mobilisation and voter education**

The role of civil society in any democratic setting requires an up-to-date engagement within the political environment. This is a vital yardstick to measure democratic progress. The Gambia’s December 2016 election, as argued earlier, was a decisive moment, that witnessed the active engagement of various political stakeholders. Cognisant of the enormous tasks, owing to the crucial nature of the December polls, coupled with the toxic political environment, CSOs had to intensify their engagements, especially at the grassroots level. Fundamental to note in such engagement is the role of mobilisation and voter education that a few CSOs had embarked on.

A youth-led network, *Activista – The Gambia*, was among the CSOs that were active on the stage during the peak of the elections campaign. Shortly before the scheduled campaign period, the network embarked on voter education among women and youth groups in the northern part of the country – Kerewan and Albreda through community dialogue, radio programmes and trainings.<sup>43</sup> The replication of such activities in other regions of the country had broader impacts on the 2016 election. It was understood by some that Jammeh was going to win another term in office, as such, participating in the election was going to be of no significance to change of government, and broadly, the country’s democracy. However, a massive sensitisation on voting and the importance of the 2016 elections to the country’s peace and democracy, arguably, changed the mind-sets of many voters and the entire political trajectory. An *Activista* member expressed that such activities did not only change the mind-sets of many youths and women electorates towards democracy, but showed that unlike previous polls, the 2016 election was going to be a more competitive one.<sup>44</sup> In light of this, radio sensitisation programmes across the country were launched with women and youth being the targets. The decision to target youth and women was strategic on the part of CSOs as these two demographics constitute a significant percentage of The Gambia’s voter

43 ‘Voter Education in North Bank Region, Report’ *Activista* (2017).

44 Interview with a member of *Activista – The Gambia*, 1 June 2019.

population; thus, their participation was key in the most decisive election in the country's political history.

Since newspapers and the internet were not accessible to all, especially in rural communities, launching radio talk shows were necessary in reaching out to the electorates across the length and breadth of the country. However, as the incumbent had a greater control over the state media (television and radio), private radio stations became the targets of CSOs like *Activista* in sensitising the masses. With a brutal regime in power that had a record of suppressing the media through closure and arrests of journalists, any private radio station that was ready to host such 'sensitive' activities must have been fully aware of and be prepared to face possible consequences. In its activity report, *Activista* states that:<sup>45</sup>

[It] organised voter sensitisation programmes to reach out to many youths through cross regional caravan targeting main and weekly markets, music and dancing, short quiz competition on voter rights, educating the masses through street talks, youth symposium on voter right educations and joint radio panel discussion with partners. The programme helped to change the mind set of many young people to take voting not only as a right but a responsibility toward national development. *Activista's* voter education has been recognised and applauded by the Chairman of The Gambia Independent Electoral Commission (IEC) during a statement to the nation on the 30<sup>th</sup> November 2016, a day before Presidential Elections.

This was a crucial factor in the outcome of the 2016 polls.<sup>46</sup> Such engagements are in the context of CSOs proper function in keeping the citizenry informed about governance issues. Essentially, this makes a crucial component of keeping democracy awake and ensuring effective citizenship participation in the democratic space.

### **3.3 Civic education and its role in The Gambia's 2016 poll**

Undoubtedly, civic education is one way of keeping voters informed about their duties and responsibilities as primary stakeholders in elections. Fundamentally, civic education is a continuous process in democratic societies. A youth-led organisation, The National Youth Parliament (NYP), which engages in advocating and advancing human rights, good governance, and democracy in The Gambia, was part of the leading civil society groups that embarked on civic awareness campaign across the country ahead of the December 2016 polls. Without distinction, the

45 'Voter Education Project, Final Activity Report' *Activista* (2016).

46 As above.

NYP targeted voters in the country to sensitise them on the importance of voting, especially in the 2016 election. A seven-day voter education was held across the country, targeting schools and communities. Forty-two conventional schools and seven *Madarassas* (Islamic/Quranic schools) were reached during this campaign. At community level, the organisation targeted communities that experienced low voter turnout in previous elections.<sup>47</sup> The organisation was also active in the observation of the election as an independent domestic observer body and at the level of CSO Coalition. A member of NYP says:<sup>48</sup>

Although no post-activity research was carried out to ascertain the impacts of our civic engagement with schools and communities, we believe that such civic engagements have effectively contributed to the impressive voter turnout among young people in the country. This is our belief, and we think we have impacted the 2016 elections.

In post-2016 election, NYP continued its role of spreading awareness among Gambian voters ahead of the April 2017 National Assembly (NA) elections. The organisation deployed 45 youth parliamentarians across the country as domestic observers.<sup>49</sup> This was a continuation of the organisation's engagement in the electoral space to ensure a free, fair, and transparent election.

### **3.4 CSO Coalition on Elections (CCE) in the lead on election monitoring and observation**

A well designed and coordinated election observation can better enhance effective civil society participation in the electoral process.<sup>50</sup> Many reasons accounted for the unprecedented nature of The Gambia's 2016 election. The election did not only witness the first democratic change of government in the country but also the massive participation of a cross section of the population in the electoral campaign, as well as the significant role played by civil society in educating and sensitising the citizenry on the importance of exercising their voting right. The inflow of both domestic and international supports to the work of civil society stakeholders in the elections were of great importance to the overall electoral environment.

47 Civic Engagement Report on the 2016 Elections, The National Youth Parliament, The Gambia.

48 Interview with a member of the National Youth Parliament, 14 June 2019.

49 NYP (n 47).

50 Draft Preliminary Report on the April 2017 National Assembly elections, The National Youth Parliament, The Gambia.

Although, many could be mentioned, few stood out as key players in the monitoring and observation roles.

Election observation is considered a fundamental element in building and consolidating a robust democracy. Through election observations, citizens' confidence can be built in the electoral process, especially of countries in democratic transitions.<sup>51</sup> Leading to the December 1 polls, the IEC declared 16 to 29 November 2016 as the official campaign period. Prior to this, conflict indicators were identified by the CCE, assigned to monitors and observers to report on incidents of both violent and non-violent nature from different parts of the country.<sup>52</sup> This was meant to ensure that incidents that have the potential to ignite violence are reported for preventable actions – a part of early warning. Through the strenuous efforts of The West Africa Network for Peacebuilding (WANEP) – The Gambia, a national platform which was created in 2006, civil society groups were brought under an umbrella to monitor and observe the election, a step that was unique in The Gambia's election history.<sup>53</sup> Certainly, this was in fulfilment of the mandate of the Network – specifically to facilitate the participation of civil society in elections, democracy, and good governance.

As of 2016, the CCE had 20 civil society organisations and pursues the goals of not only encouraging citizen participating in elections but influencing public policy through the monitoring and observations of elections in the country. As part of its monitoring and observation mandates, the CSO coalition closely monitored the political rallies of the APRC, Coalition 2016 (which comprised seven opposition political parties and a female Independent presidential aspirant) and the Gambia Democratic Congress (GDC).<sup>54</sup> Although, all political parties appreciated the manner in which the IEC was open and accessible during the election period, some observers however, were earlier pessimistic and suggested a longer campaign period beyond the officially approved 13 days, a more open political space that would allow freedom of expression and of the media. These would have levelled the playing field for free, fair, and transparent polls.

Despite the position of the CSO coalition in commending the IEC for regulating a peaceful political campaign, it had major concerns about the monopolisation of public resources and use of state institutions by the

51 CSO Coalition on Elections Preliminary Statement on the 2016 Presidential Elections.

52 As above.

53 As above

54 As above.

APRC which gave the incumbent an added advantage over the opposition. As witnessed in previous elections, military personnel openly showed support to Jammeh and his APRC. Specifically, military officers were seen in green APRC t-shirts. Going into the campaign, they were seen in APRC party colours, showing loyalty to Jammeh.<sup>55</sup> To multiply his support base, military officers and civil servants were out to cheer Jammeh on his nomination day. This limited the possibility of achieving free and fair elections. However, the IEC, through a written communication, ensured that equal airtime was allocated to all political parties on state-owned television and radio. Previous elections have been different when the incumbent controlled state-owned media with civil society muted. As a result, the participation of more civil society in the monitoring and observation of the 2016 election was a giant step towards strengthening participatory democracy in The Gambia. Although, a member of the CSO coalition, Peace Ambassadors – The Gambia (PAG) has been observing all national elections in The Gambia since 2006 by deploying its members as ‘observers to the various constituencies in the country, including the base (report room) with the needed tools’ to monitor and observe the election process in line with democratic standards.<sup>56</sup>

The involvement of civil society in The Gambia’s December 2016 election received the continued support of the United Nations (UN), African Union (AU), European Union (EU), Economic Community of West African States (ECOWAS) and other local and international stakeholders. This came in the form of financial support for the implementation of election-related projects. The importance of such greater involvement of both regional and international bodies was also seen in the support rendered to the Inter-Party Committee ‘for dialogue on potential pre-electoral, electoral and post-electoral conflicts’ in the country.<sup>57</sup> The creation of the Inter-Party Committee was essential in promoting a peaceful political atmosphere throughout the election period.

#### **4 The Gambia’s unprecedented 2016 election and the political impasse-role of CSOs**

On 1 December 2016, 525 867 out of the 886 578 registered Gambian voters went to the polls to vote in what many describe as an unprecedented election. Ceesay argues that the December 2016 election in The Gambia and the political consequences it has on the country’s democracy bears a resemblance to the fall of the Berlin Wall and the ultimate fragmentation

55 As above.

56 Interview with a member of Peace Ambassadors – The Gambia, 24 February 2021.

57 CSO Coalition (n 51).



of the Soviet Union in 1991, and the breakdown of apartheid in South Africa. The defeat of 'strong man' Jammeh by an opposition coalition took many by surprise, as it was generally believed that dictators of his caliber do not organise elections when they know they will eventually lose them.<sup>58</sup> It would be safe to conclude that Jammeh was certain of victory without an iota of doubt in him; hence the need to organise election.

Cognisant of the existence of an uneven political playing field, many political analysts expressed doubt if he would fail to secure another five-year mandate. Jammeh remained confident well ahead of the election when he told BBC's Umaru Fofana that he was not even campaigning, that the December 1 election was going to be his 'biggest landslide victory ever'. 'By the grace of the Almighty Allah, this will be my biggest landslide victory in the history of my elections in this country', a very confident Jammeh remarked.<sup>59</sup> Instead, it turned out to be his first electoral defeat. The union among opposition parties, jailing of key opposition figures, outrageous statements against ethnic Mandinka tribe, amongst other factors were responsible for Jammeh's shocking electoral defeat.<sup>60</sup> Fundamental among the above factors was the unity among opposition parties, just two months to the poll. This move by opposition parties altered the narrative and arguably, invigorated anti-Jammeh electorates to vote in the elections. The outcome of the 2016 election revealed that the effective participation of civil society can help in democratically banishing an authoritarian regime.

Fundamentally, the 2016 election was a turning point in The Gambia's election history which led to Jammeh's political demise. Evidently, from a cross section of society, there was participation, especially by civil society in the pre-election arrangements. According to the 2016 CSO Sustainability Index for Sub-Saharan Africa, the participation of Gambian CSOs in the country's governance process stood at 5.4 out of 7 which showed that the sustainability of CSO activities has been impeded in the preceding year. However, the index notes that 'the latter part of 2016 was possibly the freest period ever experienced by Gambian CSO'.<sup>61</sup> As stated

58 I Ceesay 'Gambia continues to defy existing political norms on the African continent' *Africa at LSE blog posts* 6 December 2012 [blogs.lse.ac.uk/africaatlse/2016/12/06/gambia-continues-to-defy-existing-political-norms-on-the-african-continent/](https://blogs.lse.ac.uk/africaatlse/2016/12/06/gambia-continues-to-defy-existing-political-norms-on-the-african-continent/) (accessed 20 May 2019).

59 'Gambia 2016: Jammeh confident of election victory' *Jollofnews* 1 December 2016 <https://jollofnews.com/2016/12/01/gambia-2016-jammeh-confident-of-election-victory/> (accessed 11 June 2019).

60 E Njie & A Saine 'Gambia's "Billion Year" President: The end of an era and the ensuing political impasse' (2019) 18 *Journal of African Elections* 1.

61 USAID '2016 CSO sustainability index for sub-Saharan Africa' Management

earlier, under the leadership of WANEP office in Banjul, a coalition of civil society, comprising various CSOs were instrumental in the election observation, reporting on both campaign and voting day incidences across the 53 constituencies nationwide, as well as providing recommendations to the IEC and international stakeholders that were involved in the electoral process. Their active and successful participation in the 2016 presidential election was a motivating factor for their continued role in the National Assembly and Local Government elections that were held in April 2017 and May 2018, respectively.

Following the active participation of CSOs in The Gambia's historic December election which witnessed a change of government, Jammeh's announcement to the nation on 9 December 2016 that he rejected the election results 'in its entirety' plugged the country into political uncertainty. Jammeh's refusal to respect the results of the 1 December election and handover power when his term expired on 18 January 2017 alerted both Gambians and the international community to signs of a serious political upheaval that could be a setback to the country's newly won democracy. In a commanding tone, Jammeh rejected the outcome of the 2016 presidential poll.<sup>62</sup>

I hereby announce to you Gambians, my total rejection of the election results and thereby annulling the election in its entirety until we go back to the polls. We will go back to the polls because I want to make sure that every Gambian has voted.

In anticipation of defiance by the citizenry, the stern leader warned that he was not going to allow any form of demonstration. He further indicated that elections will only be organised if there was money, implying that he was ready to stay in power as long as he wished.<sup>63</sup> The international community, including the United Nations did not ignore Jammeh's U-turn decision to 'annul' the election results. The Economic Community of West African States (ECOWAS) had to take the lead in the crisis to prevent what could have cost The Gambia and the West African sub-region in general, a great deal of instability. The Community's use of a mediation team comprising notable leaders within the sub-region such as Allen Johnson Sirleaf of Liberia, Muhammed Buhari of Nigeria, John Mahama of Ghana and Ernest Bai Koroma of Sierra Leone (all are former

Systems International, Inc (2016) [https://www.usaid.gov/sites/default/files/documents/1866/2016\\_Africa\\_CSOSI\\_-\\_508.pdf](https://www.usaid.gov/sites/default/files/documents/1866/2016_Africa_CSOSI_-_508.pdf) (accessed 10 March 2021).

62 Gambia Radio and Television Services (GRTS) Broadcast 9 December 2016.

63 Njie & Saine (n 60).

statespersons except Buhari) was its major response to the crisis.<sup>64</sup> But this would come after the citizenry showed their disapproval of Jammeh's unilateral decision to 'annul' the outcome of the polls, which technically, was beyond his constitutional powers.

In reacting to his surprise and outrageous decision, a cross-section of the Gambian population began to show defiance through pronouncements on social media. Although individual citizens began to respond, showing solidarity with the elected president, Adama Barrow, The Gambia Bar Association (GBA) was the first organised body that formally and publicly showed defiance to Jammeh's rejection and called on him to respect the verdict of the people and step down on the due date which would later have a snowball effect, with more responses from other organised bodies, including civil society groups asking him to respect the verdict of the people.<sup>65</sup> Such high profile move by professional bodies suggested that Jammeh would not have it easy with CSOs this time.

As social media campaigns greatly contributed to Jammeh's defeat at the polls, an online campaign dubbed *Gambia Has Decided* was started by young people, and within days, attracted large followership both within and outside The Gambia. A 'pan-African movement', the group brought together CSOs in urging Jammeh to respect the results of the December poll.<sup>66</sup> This later became a mobilising force behind the wider public defiance against Jammeh during the month-long political impasse. Social media platforms such as Facebook, WhatsApp, Twitter were used to amplify and solidify the message. As part of the social media campaign, printed t-shirts with the slogan #GambiaHasDecided were distributed and wore by Gambians, echoing the same message.

As January 19 loomed when Jammeh's term would have expired a day prior, Barrow was to take oath as the elected president, and for peace and stability to prevail in the Gambia, more professional bodies and NGOs urged Jammeh to reverse his decision and accept the December 1 verdict. The Medical and Dental Association of The Gambia (MDAG), a professional body that comprise all medical practitioners in The Gambia with the objective of providing

64 As above.

65 'Gambian civil society calls for President Yahya Jammeh to step down' *World Movement for Democracy* 15 December 2016 <https://www.movedemocracy.org/gambian-civil-society-calls-for-president-yahya-jammeh-to-step-down> (accessed 27 February 2021).

66 ML Saidykhani '#GambiaHasDecided: Reflections on a dramatic transition' *Pambazuka News* 11 May 2017 <https://www.pambazuka.org/democracy-governance/gambiahhasdecided-reflections-dramatic-transition> (accessed 27 February 2021).

professional and technical advice, where necessary, to The Government of The Gambia, Nongovernmental, Multilateral and Bilateral Agencies in the concerted national effort of improving health care for all in The Gambia

urged stern Jammeh to reverse his decision. As custodians of healthcare delivery, the doctors deemed it necessary to discourage any move that could jeopardise their work of providing health care services to the people, which a civil or military unrest has the potential to do.<sup>67</sup> More professional bodies, staff of different public institutions including the country's only public university, The University of The Gambia joined the call for a solution to the looming crisis, urging Jammeh to peacefully handover power. As stakeholders in the 2016 elections, more youth-led civil society groups such as NYP, Activista, among other entities all joined the crusade in publicly challenging the dictator's decision.

The Gambia Press Union (GPU), an umbrella body of journalists in the country did not remain silent during the political uncertainty. Jammeh's crackdown on journalists and media houses continued even after he lost the elections, when one would have thought it to be a different case. His 'surprise' defeat to the opposition coalition of seven political parties, and subsequent refusal to step down which triggered a political crisis in the country, Gambian security agents closed three private radio stations near the capital, Banjul. They were Teranga FM, Hill Top and Afri radio.<sup>68</sup> The GPU President at the time, Emil Touray described the closure as a 'slap in the face' for Gambia's reclaimed democracy.<sup>69</sup> This move by Jammeh could have been a strategy to put Gambians in a total information blackout during this critical juncture in the country's political history. However, it failed, as alternative sources of information on the social media became widely accessed. Although, the government restricted the usage of such outlets, citizens were able to manoeuvre this tactic by using the Virtual Private Network (VPN) to not only access information but also counter and control the narrative. As a civil society group, WANEP issued a statement on 14 January 2017 and strongly urged Jammeh to step down to avoid a political desolation. A statement signed by the Executive Director, Chukwuemeka B Eze, recognised and applauded Jammeh's decision to

67 'More CSOs call for President Jammeh to step down' *Foroyaa* 15 December 2016 <http://foroyaa.net/more-csos-call-for-president-jammeh-to-step-down/> (accessed 2 June 2019).

68 E McAllister 'Gambian Authorities shut three radio stations amid post-election crisis' *Reuters* 8 January 2017 <https://www.reuters.com/article/us-gambia-politics/gambian-authorities-shut-three-radio-stations-amid-post-election-crisis-idUSKBN14M0RC> (accessed 5 May 2019).

69 'The Gambia's Teranga FM and Hilltop radio closed' *BBC News* 2 January 2019 <https://www.bbc.com/news/world-africa-38488083> (accessed 4 June 2019).

have earlier conceded defeat, which defied all odds that dictators never accept defeat.<sup>70</sup>

Religious groups were not left out. Although, Jammeh was able to have a tight grip over religious leaders throughout his rule, to the extent of being termed 'the master monopoliser of Islamic symbols',<sup>71</sup> he did not find it easy this time. He did not receive support from The Gambia Supreme Islamic Council or even the Banjul Muslim elders. Members of the Islamic faith could not stay loyal as Imams continuously called on him to respect the verdict of the people. Already upset by his Islamic state declaration, members of the Christian faith could not hide their opposing stance to Jammeh's rule during the month-long political impasse. Jammeh himself called for a meeting at State House during the impasse and urged religious leaders to preach peace and unite the country. Despite difference in faith, leaders of both the Islamic and Christian communities appealed for Jammeh to reverse his decision, the only solution to the looming political crisis.

Albeit, the diplomatic intervention of ECOWAS, coupled with its use of the threat of military force to flush out Jammeh convinced him to relinquish power, the response of civil society to the defiant leader's outrageous decision contributed in amicably resolving the political impasse. It was a moment of boldness on the part of CSOs – a message and sign that power truly belongs to the people, especially when democracy takes its rightful position. Conscious of the compromising attitude of Gambians, civil society considered it a duty to stand in solidarity with the electorates in ensuring that the 2016 election results were upheld, a goal that was attained.

## **5 Post-2016 CSO engagements: The task of consolidating the restored democracy**

During the 22-year tyrannical rule of Yahya Jammeh, Gambian CSOs had a blow in the exercise of their core mandate of promoting democratic accountability, human rights, and good governance through freedom of expression. Although the 1997 Gambian Constitution guarantees the right to freedom of expression as stipulated in section 25,<sup>72</sup> Jammeh's regime curtailed this right, subjecting it to the legal requirement to obtain a permit

70 'WANEP Says President Jammeh Should Step Down' *Foroyaa* 18 January 2017 <http://foroyaa.net/wanep-says-president-jammeh-should-step-down/> (accessed 31 May 2019).

71 M Darboe 'Gambia' (2004) 47 *African Studies Review* 73.

72 Section 25 of the 1997 Constitution.

from the police through the infamous Public Order Act to exercise such a fundamental right. The jailing of key opposition figures ahead of the 2016 polls was in line with upholding the Act which has its origin in colonial law.

However, Post-Jammeh Gambia witnessed a dramatic change in the country's political landscape as the political space became more liberalised. Democratic values such as freedom of expression and promotion of accountability and transparency also became norms in the aftermath of the 2016 elections, although with some challenges. The 2019 CSO Sustainability Index states that 'the overall sustainability of The Gambia's CSO sector improved moderately in 2019, moving the country from the Sustainability Impeded to the Sustainability Evolving range'. Significantly, the organisational capacities of CSOs have improved moderately, despite some governance challenges.<sup>73</sup> Broadly, CSOs now enjoy a better space to exercise their traditional role of ensuring democratic accountability.

The engagements by Centre for Research and Policy Development (CRPD), Gambia Participates, and Peace Ambassadors – The Gambia on the country's new Draft Constitution, the Election Bill and other policy issues present cases of CSOs continues steadfastness in the post-2016 democratic space. The filing of a lawsuit by the CRPD and Gambia Participates at the country's Supreme Court, challenging the legality of the D54million loan scheme allocated for parliamentarians was remarkable as the apex court ruled that the creation of the loan scheme was unconstitutional. Among others, the two CSOs asked the court to make

a declaration that the amendment done by the National Assembly by including a budget line item of D54.4 million is in contravention of sections 151,152 and 155 of the Constitution and a violation of section 47 of the Public Finance Act, 2014.

and

an order directing the Auditor General not to grant approval for the withdrawal of the sum of D54.4 million or any part of it by the National Assembly or the National Assembly Service.<sup>74</sup>

73 United States Agency for International Development '2019 CSO Sustainability Index for Sub-Saharan Africa' <https://www.fhi360.org/sites/default/files/media/documents/resource-csosi-2019-africa-report.pdf> (accessed 10 March 2021).

74 Center for Research & Policy 'Civil Society seeks court action over decision by NAMs to award themselves 54.4 million building loans' <https://crpgm.org/first-post/> (accessed 25 February 2021).

CRPD and Gambia participates equally sued the Mayoress of Banjul, the country's electoral body and the Attorney-General to the High Court, challenging the powers granted to the Mayoress by the IEC for the issuance of attestations for the acquisition of voter's card by potential voters. The landmark judgment declared that the Mayoress has no powers, constitutionally, to issue such attestations.<sup>75</sup> This was welcomed within the CSO family. Broadly, the active participation of the CSO Coalition and other CSO bodies like CRPD, NYP, PAG among others in the 2021 General Voter Registration exercise as observers, speaks of the continues engagement of Gambian CSOs in consolidating the country's democratic gains.

Consolidating The Gambia's restored democracy remains a huge challenge for the Adama Barrow administration and may remain so for subsequent governments. Building democratic institutions and instilling strong democratic culture in the citizenry are the surest ways to consolidate the country's fledgling democracy. Key among the sectors that need to be strengthened is civil society. The proliferation of CSOs might not be the solution but keeping them vibrant and steadfast to the work of promoting democratic accountability is essential in the consolidation process. The following civil society entities have significant roles to play:

## **5.1 The media**

As discussed earlier, the media remains a significant player in democratic consolidation, not only in Africa but other societies as well. Their continued role of promoting transparency and accountability principles is helping societies that are recognised as leading democracies in consolidating democratic gains. There is no better way to keep a government accountable than informing the citizenry.

However, the challenge that young democracies could face in ensuring the media performs its proper role is around media laws. Since 2013, the Jammeh administration enacted a series of repressive laws that curtailed freedom of expression and that of the media with a law that increased penalties for 'providing false information' and another that criminalises the act of using the internet to spread 'false news' about the government or civil servants.<sup>76</sup> This particular amendment to the Criminal Code

75 O Faye 'Rohey Malick Lowe violated the law by issuing attestations, High Court Rules' *The Chronicle* 13 July 2021 <https://www.chronicle.gm/rohey-malick-lowе-violated-the-law-by-issuing-attestations-high-court-rules/> (accessed 26 July 2021).

76 Human Rights Watch 'World Report 2017 Gambia: Events of 2016' <https://www.hrw.org/world-report/2017/country-chapters/gambia> (accessed 5 May 2019).



increased the prison term from six months to five years and the fine from D500 (\$12) to 50 000 (\$1 226) for providing 'false information' to a public servant which includes the President, Vice President, cabinet ministers and members of parliament.<sup>77</sup> These according to Human Rights Watch, have circumscribed the proper functioning of the media and other CSOs, serving as threats to freedom of expression in The Gambia.<sup>78</sup>

It is evident that post-Jammeh Gambia has witnessed the emergence of a few new media houses, ranging from print to electronic, including television stations such as QTV, Paradise TV, and Star TV, coupled with innovative TV and radio shows about governance issues in the country. Even though, the current government 'conceded on the unconstitutionality of libel, criminal defamation and sedition, it has maintained that false news places 'reasonable restriction necessary in a democracy'.<sup>79</sup> This remains a challenge to The Gambia's democratic consolidation. However, the GPU continues to challenge the law on 'false news' in an attempt to decriminalise it.<sup>80</sup> The challenge over the case was first heard under the Jammeh regime but without any proper legal remedy. The role of the GPU in ensuring that the government repeal all media laws that limit the right to freedom of expression and that of the media will greatly contribute to promoting democratic accountability and human rights in the new democratic dispensation. This would require a rigorous engagement with the government and key international partners that are involved in The Gambia's transitional project, to help in addressing this major challenge that the media faces. It is essential to note that the passing of the highly awaited Access to Information Bill into a law is an encouraging step towards the progressive realisation of vibrancy among CSOs, especially the media fraternity in The Gambia.

## 5.2 Human rights groups

In modern democratic governance, human rights and democracy are inseparable; they exist to complement each other. The Gambia had gained a bad reputation for human rights during the 22-year rule of Jammeh. The change of government indicated a renewed hope for the new democratic dispensation, anchored on the respect for fundamental rights and freedoms. Common to all democratic transitions, The Gambia's human

77 As above.

78 As above.

79 'GPU Continues battle to decriminalize false news' *The Standard Newspaper* 23 November 2017 <https://standard.gm/gambia-news/gambia-gpu-continues-battle-decriminalise-false-news/> (accessed 5 May 2019).

80 As above.

rights record is not the best. In restricting citizens' voice in the governance of the country, the Jammeh regime either introduced or maintained notorious laws which specifically targeted government critics. One such bad law which has a colonial root, as noted earlier is the well-known Public Order Act which was used by the regime to silence opponents. Those who violate such a law would face arrest and trial or could even be killed by the regime as was the case with opposition youth leader Solo Sandeng who was allegedly killed by Jammeh's killer gang.

On 27 November 2017, the country's Apex Court (Supreme Court) dismissed the claim made by the leader of the UDP, Ousainou Darboe and others, who filed a case, challenging the constitutionality of section 5 of the Public Order Act and section 69 of the Criminal Code.<sup>81</sup> The Court's decision to uphold the law serves as a major obstacle to the exercise of the right to freedom of assembly and the promotion of democratic accountability through civil society engagement. With the law still in place, Gambian CSOs would have to follow the same routine procedure to obtain a permit before they can exercise such a fundamental role, necessary in a democratic setting.

The realisation of human rights remains a major concern in democratic transitions, especially in post-dictatorship societies. Ranging from the Child Protection Alliance (CPA) on the promotion and protection of children's rights, to The Gambia Association of the Physically Disabled (GAPD) on the rights of persons with disability as well as those of older persons, Gambian human rights groups have a major role to play in the effective implementation of the rights of such vulnerable groups. It is in this spirit that the new Draft Constitution (rejected by parliament) should contain an entrenched Bill of Rights that could be promoted, protected, and fulfilled. For consolidation to take place – avoiding a reversal to autocracy, previously violated rights need to be respected by the state; a role civil society should play in ensuring democratic accountability and respect for human rights.

It is noteworthy that the setting up of The Gambia National Human Rights Commission (NHRC) is a significant step towards promoting human rights under the new democratic dispensation. As an independent body that is supposedly free from government interference and control in the exercise of its core mandate of promoting and protecting human rights in The Gambia, the NHRC should serve as a watchdog to the state

81 'Supreme Court Rules Against Darboe's Claim' *The Point* 27 November 2017 <http://thepoint.gm/africa/gambia/article/supreme-court-rules-against-darboes-claim> (accessed 15 August 2019).

in the exercise of such important role as required in democratic societies. It is the duty of the NHRC to keep the state up to its task of protecting, promoting, and fulfilling fundamental rights and freedoms in line with various international human rights instruments that The Gambia is a party to. Vulnerable groups in society such as children, women, the disabled, and older persons need their fundamental rights protected, promoted, and fulfilled by the state which the NHRC and other civil society groups should assist in. Achieving this would require the constant engagement with the government, continues human rights training and education, dialogue with stakeholders on key human rights issues that vulnerable groups in society continue to face.

### **5.3 Professional bodies**

Any attempt to consolidate The Gambia's democratic gains will require the full involvement of all civil society stakeholders in the country. Professional bodies cannot be left out in this regard. Cognisant of the influential role professional bodies like the GBA played during the political impasse – calling on Jammeh to respect the Constitution and the will of the Gambian people in a historic and positive move in post-December 1 democratic strive, other professional bodies that could provide intellectual challenge to the government are needed in the country's consolidation journey.

As the umbrella body of legal practitioners in the country, the GBA has been challenging the Barrow government on decisions considered to have contravened the Constitution or other laws of The Gambia. With a high degree of judicial independence, which the GBA has been emphasising, The Gambia's democratic consolidation strive is expected to register progress. Broadly, as trade unions and other professional entities remain sacrosanct in advancing the interest of their members, they equally have a fundamental role to play in upholding the values of a democratic society which include challenging the government on issues that affect the generality of society in relation to democratic governance.

### **5.4 Women's rights groups**

Women's rights groups could occupy center-stage in The Gambia's democratic consolidation strive. The Gambia remains a country where women are underrepresented in key decision-making institutions, including the parliament. Discouragingly, only three females were elected at the country's 2017 National Assembly elections while two were nominated by the president. One of the nominated females represents civil society (persons with disabilities). The initial decision of the

President to terminate the nomination of the other nominated female member in the name of Ya Kumba Jaiteh could be considered a blow to women representation in political offices in the Gambia. However, the Supreme Court decision which reversed her dismissal is a positive step towards judicial independence.<sup>82</sup> Conscious of the fact that the cultural and religious beliefs of a section of the Gambian populace hinder women representation in key decision-making bodies, any genuine democratic consolidation must seek to address such a challenge in which women groups have a greater role to play.

It is noteworthy that the rejected Draft Constitution recognises and values gender diversity in appointments to independent institutions and offices as outlined in section 214(4).<sup>83</sup> Under Schedule 2 regarding constituencies for the National Assembly; in addition to the 53 elected members, there shall be 14 women elected members in the National Assembly with two from each administrative area.<sup>84</sup> Should the Draft Constitution pass parliamentary stage and be approved at a referendum, these provisions are expected to improve women's participation and representation in politics and decision-making, especially in the area of law making, policy formulation and implementation. WANEP continues to play its CSO role of fighting for women participation in politics through training on leadership and peacebuilding for the 2021-2023 electoral cycle,<sup>85</sup> which are essential in democratic governance. Liberal democracy calls for popular participation of the citizenry; hence a demographic group cannot be left out based on sex or gender. Owing to the crucial role women played in the December 2016 election, their voice for effective representation is essential in The Gambia's democratic consolidation.

## **5.5 Youth-led CSOs**

In addition, youth-led CSOs role in checking the exercise of government powers and responsibilities has also been observed in the 'New Gambia'. For instance, youth-led CSOs have been in the forefront in exercising the right to freedom of expression and assembly. In demanding basic needs of the people, in November 2017, an ad hoc social movement #OccupyWestfield, expressed worry and frustration over the erratic water

82 *Ya Kumba Jaiteh v Clerk of National Assembly and Others* SC No 001/2019.

83 Section 214 of the Draft Constitution.

84 Section 134, Schedule 2 of the Draft Constitution.

85 'WANEP prepares 50 women for next electoral cycle' *The Standard Newspaper* 31 May 2019 <https://standard.gm/wanep-prepare-50-women-for-next-electoral-cycle/> (31 May 2019).

and electricity supplies in the country.<sup>86</sup> Although, the protest was allowed to take place, it did not pay much dividend as the country's electricity company continues to render poor service to its customers. However, the Occupy Westfield protesters were able to stage the first anti-government protest in the 'New Gambia' – a sign that democracy is alive and well.

In December 2018, another movement, #OccupyNA staged a protest in the country's law-making chambers, demanding law makers to reject a supplementary Appropriation Bill that was brought in by the executive, on its spending at the end of the 2018 Fiscal year. Law makers later rejected the bill. #OccupyBAC, a protest by residents of West Coast Region in demand for better services from the Brikama Area Council was staged in July 2019.<sup>87</sup> These protests were mostly organised and led by youth who felt the need to hold public officials to account for their actions and inactions as required in a democratic dispensation with vibrant CSOs.

Perhaps, the country's democratic waters were tested in December 2019 when thousands of citizens under a pressure group 'Operation 3 Years Jotna'<sup>88</sup> took to the streets and called for President Barrow to step down in honour of the Coalition 2016 agreement. He was to serve for only three years as a transitional president. It was for the first time in the country's political history that an open demonstration, demanding the resignation of the president was held. It was a moment of democratic accountability. These moves were manifestations of effective civil society and social movements participation in holding politicians and other public office holders accountable for their actions and are crucial in The Gambia's strive to consolidate its newly restored democracy.

The role of youth-led CSOs in The Gambia's momentous 2016 election is recognised. As key stakeholders, youth-led civil society groups can bring the issue of youth to the forefront and ensure that government does not only fulfil its role in advancing the socio-economic rights of youth but also ensures the practice of good governance. Considering that The Gambia has a youthful nation, with 60 per cent or more of its population made up

86 'Gambia: Westfield Protesters Dispersed' *Foroyaa* 13 November 2017 <http://foroyaa.gm/westfield-protesters-dispersed/> (accessed 15 August 2019).

87 'Police arrest over a dozen people in connection to Brikama protest' *Kerr Fatou* 4 October 2019 [www.kerr-fatou.com/police-arrest-over-a-dozen-people-in-connection-to-brikama-protest/](http://www.kerr-fatou.com/police-arrest-over-a-dozen-people-in-connection-to-brikama-protest/) (accessed 27 October 2019).

88 *Jotna* is a Wolof word, meaning 'it is time'. The movement was formed to put pressure on Adama Barrow to relinquish power at the end of the agreed 3 years he had with the coalition partners and organise fresh elections. The protesters failed in their move following a second protest in January which turned violent. The leaders of the movement were arrested which has ended their call for Barrow to leave office.

by young people, the full participation of this constituent is necessary in consolidating the country's democratic gains. At a broader level, youth-led CSOs have a role to play in civic education through sensitisation and awareness creation among young people on their civic duties. A replica of pre-2016 election sensitisations and continued youth dialogue and engagements are essential in the move towards democratic consolidation. The NYP, Activista and PAG, amongst others could play this role.

## **6 Conclusion**

Civil society participation remains a crucial component of democratic governance all over the globe. This is widely acknowledged by scholars of political transition, especially those with an interest in Africa's transitional journey from authoritarianism to democratic rule. The Gambia under Yahya Jammeh did not guarantee the active participation of civil society in elections and overall democratic governance. The regime silenced the media, human rights groups, and professional bodies. Like the PPP era, the APRC became the dominant political party with uncompetitive elections. What must have been responsible for the sudden active participation of civil society in the country's historic 2016 election remains subject to various explanations. Overall, the 2016 election offers valuable lessons for Gambian civil society to recognise their needed role in holding free, fair, transparent, and credible elections and, by extension, democratic governance. It is noteworthy that Gambian CSOs are currently playing an active role in the country's constitutional review process – to present a new Constitution to Gambians that is expected to usher in a third republic – anchored on respect for democratic norms and values well as fundamental rights and freedoms.

Overall, this chapter has conceptualised civil society as a wide range of actors that are involved in democratic governance. The chapter has discussed the participation of civil society in The Gambia's historic 2016 presidential election and its aftermath. It has highlighted the efforts of CSOs in ensuring a free, fair, transparent, and violent-free election. Like many other transitional democracies, CSOs have more significant role to play in The Gambia's strive for democratic consolidation. However, the partisan nature of members of civil society groups can endanger their work in democratic consolidation and should be avoided. To ensure vibrancy in CSO work on democratic governance in The Gambia, there is a need for such bodies to actively engage in post-election follow-ups, by providing challenge to the government on issues of transparency, accountability, respect for human rights, the rule of law and good governance. Reflecting on post-2016 civil society engagements in The Gambia's democratic space,

this chapter challenges Gambian CSOs on their needed role in ensuring that the democracy restored in 2016 is consolidated for posterity.



## References

### Books

Saine, A *The paradox of third wave democratization in Africa: The Gambia Under AFPRC-APRC from 1994-2008* (Lexington Books 2009)

Thomson, A *An introduction to African politics* 3rd ed (Routledge 2010)

### Chapters in books

Saine, A 'The Gambia's Deepening Governance and Economic Crises: 1994-2015' in Ndongo, S (ed) *Recent political developments in West Africa* (CreateSpace Independent Publishing Platform 2015)

### Articles

Arko-Cobbah, A 'The role of civil society in ensuring good governance: Challenges facing public libraries in South Africa' (2006) 55 *Library Review* 349

Botchway, TP 'Civil Society and the Consolidation of Democracy in Ghana's Fourth Republic' (2018) 4 *Cogent Social Sciences*

Bratton, M 'Civil society and political transition in Africa' (1994) 11 *IDR Reports*

Cassani, A & Tomini, L 'Post-Cold War Autocratisation: Trends and patterns of regime change opposite to democratization' (2019) 49 *Italian Political Science Review* 121

Darboe, M 'Gambia' (2004) 47 *African Studies Review* 73

Diamond, L 'Rethinking Civil Society: Towards Democratic Consolidation' (1994) 5 *Journal of Democracy* 4

Fioramonti, L & Fiori, A 'The changing roles of civil society in democratisation: Evidence from South Africa 1990-2009) and South Korea (1987-2009)' (2010) 9 *African and Asian Studies* 83

Njie, E & Saine, A, Gambia's 'Billion Year' President: The end of an era and the ensuing political impasse' (2019) 18 *Journal of African Elections* 1 DOI: 10.20940/JAE/2019/v18i2a1

Nyang, S S 'Politics in post-independence Gambia' (1975) 8 *Current Bibliography in African Affairs* 113

Perfect, D 'Politics and society in The Gambia since independence' (2008) 6 *History Compass* 426

## Theses

Jaw, SM 'Restoring democracy in The Gambia? An analysis of diaspora engagement in Gambian politics' Master's Thesis, University of Bergen, Belgium, 2017

## Case law

*Ya Kumba Jaiteh v Clerk of National Assembly* SC No 001/2019

## Legislation

Constitution of The Republic of The Gambia, 1997

## Websites

Ceesay, I 'Gambia continues to defy existing political norms on the African continent' (2016) *Africa at LSE blog posts*, 6 December 2012 [blogs.lse.ac.uk/africaatlse/2016/12/06/gambia-continues-to-defy-existing-political-norms-on-the-african-continent/](https://blogs.lse.ac.uk/africaatlse/2016/12/06/gambia-continues-to-defy-existing-political-norms-on-the-african-continent/) (accessed 20 May 2019)

Center for Research & Policy 'Civil Society seeks court action over decision by NAMs to award themselves 54.4 million building loans' <https://crpgm.org/first-post/> (accessed 25 February 2021)

Faye, O 'Rohey Malick Lowe violated the law by issuing attestations, High Court rules' *The Chronicle* 13 July 2021 <https://www.chronicle.gm/rohey-malick-lowе-violated-the-law-by-issuing-attestations-high-court-rules/> (accessed 26 July 2021)

Gilley, B 'Civil society, democracy, and elections' <http://www.web.pdx.edu/~gilleyb/CivilSocietyDemocracyElections.pdf> (accessed 24 March 2022)

'Gambian Civil Society Calls for President Yahya Jammeh to Step Down' *World Movement for Democracy* 15 December 2016 <https://www.movedemocracy.org/gambian-civil-society-calls-for-president-yahya-jammeh-to-step-down> (accessed 27 February 2021)

'Gambia: Westfield protesters dispersed' *Foroyaa* 13 November 2017 <http://foroyaa.gm/westfield-protesters-dispersed/> (accessed 15 August 2019)

'Gambia's road to democratic reform' *Africa Center for Strategic Studies* 24 April 2018 <https://africacenter.org/spotlight/gambia-road-to-democratic-reform/> (accessed 3 May 2019)

'Gambia 2016: Jammeh confident of election victory' *Jollofnews* 1 December 2016 <https://jollofnews.com/2016/12/01/gambia-2016-jammeh-confident-of-election-victory/> (accessed 11 June 2019)

- Gilley, B 'Civil, Elections and Democracy' <https://www.web.pdx.edu/~gilleyb/CivilSocietyDemocracyElections.pdf> (accessed 1 September 2019)
- 'GPU Continues battle to decriminalize false news' *Standard Newspaper* 23 November 2017 [www.sandard.gm](http://www.sandard.gm) (accessed 5 May 2019).
- Human Rights Watch 'World Report 2017 Gambia: Events of 2016' <http://www.hrw.org> (accessed 5 May 2019)
- Kerr Fatou 2019, 'Police arrest over a dozen people in connection to Brikama protest' [www.kerr-fatou.com/police-arrest-over-a-dozen-people-in-connection-to-brikama-protest/](http://www.kerr-fatou.com/police-arrest-over-a-dozen-people-in-connection-to-brikama-protest/) (accessed 27 October 2019)
- Management Systems International, Inc '2016 CSO Sustainability Index for Sub-Saharan Africa' [https://www.usaid.gov/sites/default/files/documents/1866/2016\\_Africa\\_CSOSI\\_-\\_508.pdf](https://www.usaid.gov/sites/default/files/documents/1866/2016_Africa_CSOSI_-_508.pdf) (accessed 10 March 2021)
- McAllister, E 'Gambian authorities shut three radio stations amid post-election crisis' *Reuters* 8 January 2017 <https://www.reuters.com> (accessed 5 May 2019)
- 'More CSOs call for President Jammeh to step down' *Foroyaa* 15 December 2016 <http://foroyaa.gm/more-csos-call-for-president-jammeh-to-step-down/> (accessed 2 June 2019)
- Saidykhani, ML '#GambiaHasDecided: Reflections on a dramatic transition' *Pambazuka News* 11 May 2017 <https://www.pambazuka.org/democracy-governance/gambiahasdecided-reflections-dramatic-transition> (accessed 27 February 2021)
- Siegle, J 'Overcoming Africa's Democratic Setbacks' (2013) The Brenthurst Foundation, available at <https://africacenter.org/experts/joseph-siegle/overcoming-africas-democratic-setbacks/>, accessed 12 May 2019)
- 'Supreme Court rules against Darboe's claim' *The Point* 27 November 2017 <http://thepoint.gm/africa/gambia/article/supreme-court-rules-against-darboes-claim> (accessed 15 August 2019)
- 'The Gambia's Teranga FM and Hilltop radio closed' *BBC News* 2 January 2019, available at <https://www.bbc.com/news/world-africa-38488083> (accessed 4 June 2019)
- The Voice of Africa 'Electoral violence is like a raging "bushfire" – Jammeh urges peaceful campaign' <https://www.africanews.com/2016/11/18/electoral-violence-is-like-a-raging-bushfire-jammeh-urges-peaceful-campaign/> (accessed 27 February 2021)

- Turay, J 'The role of civil society in promoting democratic governance' (2019 <https://unimak.edu.sl/wp-content/uploads/2021/06/THE-ROLE-OF-CIVIL-SOCIETY-IN-PROMOTING-DEMOCRACY-AND-GOOD-GOVERNANCE-1-2.pdf> (accessed 24 March 2022))
- United States Agency for International Development, 2019 CSO Sustainability Index for Sub-Saharan Africa <https://www.fhi360.org/sites/default/files/media/documents/resource-csosi-2019-africa-report.pdf> (accessed 10 March 2021)
- 'WANEP prepares 50 women for next electoral cycle' *Standard Newspaper* 31 May 2019 <https://standard.gm/wanep-prepare-50-women-for-next-electoral-cycle/> (31 May 2019)
- 'WANEP Says President Jammeh Should Step Down' *Foroyaa* 18 January 2017 <http://foroyaa.gm/wanep-says-president-jammeh-should-step-down/> (accessed 31 May 2019)

## Other

- Civil Society Organisation Coalition on Elections – The Gambia Preliminary Statement on December 1 2016 Presidential Election
- Civil Society Organisation Coalition on Elections – the Gambia Preliminary Statement – April 6 2017 National Assembly Election
- Civil Society Contribution Towards Achieving The MDGs In The Gambia 2005
- Draft Preliminary Report on the April 2017 National Assembly elections in The Gambia
- Gambia Radio and Television Services (GRTS) Broadcast 9 December 2016, Banjul
- Gambia Independent Electoral Commission 1996, Presidential Elections Results, Banjul
- Interview with a member of Activista – The Gambia 1 June 2019
- Interview with a member of the National Youth Parliament 14 June 2019
- Interview with a member of Peace Ambassadors – The Gambia, 24 February 2021
- Voter Education Project, Final Activity Report, Activista 2016
- Voter Education in North Bank Region Report, Activista 2017
- West Africa Network for Peacebuilding (WANEP) Monthly Bulletin Report May 2018