

# Cybercrime Legislation in The Gambia

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# Reform of cybercrime legislation: the Gambia

## The Gambia ??



## The Gambia ?? (Cont.)



6 licensed Internet  
Service Providers



4 GSM operators

## The Gambia ?? (Cont.)

- Internet Penetration Rate is at 70%
- Mobile penetration rate is at 147%
- The Gambia is connected to the rest of the world through the ACE cable with over 100GB capacity
- Has a total land area of 10, 000 sq.km. with about 1300 Km of fiber as national backbone

## Why cybercrime legislation

- There has been no legislations on e-evidence;
- Insufficient detection mechanisms, investigation deterred by lack of legislation on e-evidence, and prosecution has mainly been done using economic crime law
- E-evidence could not be admitted to court

## Why cybercrime legislation Cont.

- Computer related crimes were charged using general economic crime related. Some computer related crimes are still ongoing but they cannot be prosecuted or charged due to lack of sufficient procedural measures on obtaining e-evidence. Eg. Sim boxing, etc.
- The Gambia was identified vulnerable by WEST AFRICA CYBERSECURITY INDEXING AND READINESS ASSESSMENT report.

## Why cybercrime legislation Cont.

- The National Cybersecurity Strategy and Action Plans 2016 called for the urgent formulation of legislation on cybercrime; the strategy included some general provisions to be considered.
- Some general legislative reforms are underway as a result of change of government. This include review of the Information and Communication Act 2009.



## The process

- In 2018, An advisory mission from Council of Europe came to assess the laws of The Gambia in comparison with the Budapest Convention.
  - This report highlighted the necessary amendments in all relevant laws
  - It also highlighted where our laws are inline
  - Very comprehensive report.
- Laws that were reviewed include
  - Information and Communication Act 2009
  - Criminal Code
  - Criminal Procedure Code
  - Copyright Act
  - Evidence Act

## The process cont.

- The Information and Communication (IC) Act 2009 had some provisions on substantial offences;
  - Part III of Chapter III of the existing IC Act 2009 is related to Computer Misuse and Cyber Crime. Part IV of the same chapter relates to the protection of children.
  - Part V of Chapter III of the existing IC ACT 2009 introduces provisions on procedural elements, mainly related to the retention of information (Art. 181-Art.182). The legislative text doesn't propose provisions on electronic evidence. However Part V of Chapter III introduces the notion of electronic records and their use. The definition of record is not given by the text.

## The process cont.

- **The report highlighted necessary steps to take in accessing further support from COE and engagements with the outside world in the fight against cybercrime**
- **The Ministry of Information and Communication Infrastructure created a drafting committee comprising of all relevant stakeholders;**
  - Gambia Police Force
  - Financial Intelligence Unit
  - ICT Sector Regulator, PURA
  - Ministry of Information and Communication Infrastructure.
  - Ministry of Justice & Attorney General's Office
  - Office of the National Security Adviser
  - Civil Society rep, Information Technology Association of The Gambia
  - Human Rights activist rep, Gambia Bar Association.
  - Rep of the telcos, ISPs, Gambia Submarine Cable company Ltd

## The process cont.

- We had a 3 days workshop for the drafting of the bill.
  - A team came from COE, Ghana, Commonwealth
  - Draft base on the comparison was prepared by COE and shared with the drafting committee
  - The committee had a brainstorming/review session on the draft prior
- The draft bill was shared online for public comments for a month
- A validation workshop was held
  - we had a team from COE and OCWAR-C Project

## The process cont.

- Bill submitted to cabinet
- Cabinet asked to incorporate cybersecurity related provisions like establishment of cybersecurity agency
- Plans to submit bill to National Assembly in Nov/Dec.

## The Impact

- Collaboration within the local stakeholders
- Participation in international fora on cybercrime / cybersecurity related
- More awareness and exposure in the domain

## Challenges

- Problems with Internal processes
- Insufficient Capacities locally
- Deficiency in Awareness

## Lessons learnt

- Effective collaboration with local stakeholders



## Plans ahead

- ▶ An engagement workshop with the National Assembly Select Committee on ICT
- ▶ Series of capacity building activities
- ▶ Data Protection and Privacy Legislation formulation
- ▶ IC Act 2009 Review; cybersecurity laws for the protection of NCI and NCII
- ▶ GMCSIRT is being established with the regulator PURA.