



## **MFVA SUBMISSION TO THE SECOND UPR OF SIERRA LEONE**

### **FREEDOM OF EXPRESSION DEVELOPMENTS SINCE FIRST UPR**

1. Since Sierra Leone's first UPR in May 2011, there were 35 reported incidents of violations of freedom of expression and freedom of assembly.

### **METHODOLOGY**

2. The information here is based on reports by the Media Foundation for West Africa's (MFWA) correspondents. The MFWA also collated reports of violations issued by members of the IFEX global network, of which the MFWA is a member, and by other freedom of expression and human rights groups.

### **NATIONAL FRAMEWORK FOR FREE EXPRESSION RIGHTS**

3. The rights to freedom of expression, freedom of assembly, and freedom of association are guaranteed under Sierra Leone's Constitution and international and regional human rights treaties ratified by Sierra Leone.
4. National law via The Public Order Act of 1965 criminalises defamatory and seditious libel and of publishing false news. The Act allows for prison sentences of three to seven years for defamatory and seditious libel, respectively, and of up to one year for publishing false news.

5. On 31 October 2013, The Right to Access Information Act entered into force, satisfying a recommendation from Sierra Leone's first UPR.<sup>1</sup> Sierra Leone's right to information legislation is one of the best in the world; however, implementation challenges remain.

## **CONTEXT OF THE MEDIA**

6. Sierra Leone has about 25 newspapers. Most are independent, although some are associated with political parties. Newspapers regularly criticise both the government and opposition parties. All newspapers are printed in English, which only one-third of the population understands.
7. There are about 40 radio stations, over half are community stations. There are two terrestrial television stations; satellite television is available to those who can afford it. Television and radio broadcasts exist in English and local languages.
8. Due to low literacy rates and the high cost of newspapers and television, radio is the most accessible news source.
9. International media outlets can operate freely but must register with the Ministry of Information and Communications and the Independent Media Commission (IMC) to obtain a license.
10. The government does not restrict internet access; however, penetration is very low (1.7% in 2013). The low penetration rate results from poverty, illiteracy, and sparse electricity coverage and unreliable services.
11. Many journalists are untrained and poorly paid; many even work without pay and take second jobs that result in conflicts of interest. Economic insecurity renders journalists vulnerable to pressures from media owners, advertisers, and businesses, among other influences. Consequently, media unprofessionalism remains a challenge in Sierra Leone.
12. There have been both internal and external interference regarding the reporting of certain content.
13. Journalists have practiced self-censorship.

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<sup>1</sup> Sierra Leone accepted this recommendation after its first UPR. A/HRC/18/10, ¶ 82.10 (by United States).

14. The IMC regulates the media and has demonstrated its independence from the government. "It provides an alternative to pressing criminal libel charges. Instead, parties can register complaints with the IMC, which can sanction libel, defamation, and falsehood by requiring the offending journalist or outlet to publish a retraction and apology or to pay a fine. The IMC can also summon editors at its discretion.

## **FOLLOW UP ON ACCEPTED RECOMMENDATIONS FROM THE 2011 UPR**

### **Police Employ Excessive Use of Force Against Free Expression Actors.**

15. Sierra Leone accepted a recommendation to "deter police officers, whatever their rank, from excessive use of force."<sup>2</sup>
16. However, it is unclear if such deterrence occurred as there have been 5 incidents of police brutality since 2011:
  17. On 4 September 2011, plainclothes police with the presidential guard stopped journalists trying to enter the National Stadium during a football match. A fight ensued, injuring one journalist. Beforehand, the journalists had reportedly witnessed the guards dividing up the proceeds of illegal ticket sales.
  18. In September 2011, police fired live bullets and teargas to disperse a rally held by the Sierra Leone People's Party (SLPP) presidential nominee, Julius Maada Bio, in Bo. All People's Congress (APC) supporters began throwing rocks at Maada Bio; SLPP supporters retaliated by throwing rocks back and burning APC buildings. Police killed one and injured nine. '
  19. In January 2012, police attacked and briefly detained journalist Allieu Sesay of Radio Democracy while he was covering the arrest of an opposition politician.
  20. In April 2012, police dispersed a strike by African Minerals Ltd workers in Tonkolili District by firing live bullets and teargas,

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<sup>2</sup> Sierra Leone considers that it has already implemented or in the process of implementing this recommendation. A/HRC/18/10, ¶ 81.40 (by Switzerland).

killing one and injuring numerous others. The workers were protesting low pay, discriminatory treatment, and poor working conditions.

21. On 6 February 2013, police attacked Elkass Sannoh of *African Young Voices (AVY)* in Freetown. His equipment, including his camera, was damaged and US\$400 was taken. Sannoh had come across police undertaking an eviction and asked whether the police should throw away property when they are supposed to protect it. When the police refused to answer, Sannoh took out his camera, then the police began beating and threatening him.

### **Application of the Criminal Libel Law Threatens Free Expression.**

22. Sierra Leone has yet to “repeal laws that that provide criminal penalties for libel.”<sup>3</sup>
23. While good defamation laws legitimately restrict freedom of expression, criminal defamation laws have a disproportionate chilling effect by placing individuals under the threat of arrest, detention, and/or the payment of typically excessive punitive fines.
24. Sierra Leone’s criminal libel law has been used to arrest and detain journalists in 5 incidents:
  25. On 3 May 2013 (World Press Freedom Day), Kashope Holland-Cole and Ibrahim Samura of *Prime Times* newspaper were arrested. They were detained for three days following a complaint by Lawyer Adekule King, a legal adviser to the National Petroleum Directorate. The complaint alleged that the journalists had libelled him by publishing pornographic pictures of him and an alleged former girlfriend. In July 2013, the court ordered the journalists to pay 12 million Leones (US\$3,000).
  26. In July 2013, police arrested Jonathan Leigh the *Independent Observer*, for libel following an article alleging that a well-

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<sup>3</sup> Sierra Leone accepted this recommendation after its first UPR. A/HRC/18/10, ¶ 82.10 (by United States).

connected businessman was corrupt. Leigh was detained for one night in prison before his release on bail of 50 million Leones (US\$11,560). Afterwards, he wrote an article criticising the judiciary and was rearrested for contempt of court. He was detained for several days; the matter was settled out of court.

27. On 18 October 2013, Jonathan Leigh and Bai Bai Sesay of the *Independent Observer* were arrested in Freetown. This followed their article criticising comparing President Ernest Bai Koroma's actions to a rat's and also criticising his relationship with his deputy. They were detained for six days without bail and without charge before being taken to court and charged on October 23 with 26 counts of seditious and defamatory libel. On 29 October, they were taken to court again. Their requests for bail were denied. On 4 November 2013, after 19 days of detention, the journalists were each granted bail of 500 million Leones (US\$114,000). Despite printing an apology on 11 November, they remained on trial. On 10 March 2014, the journalists pled guilty to conspiracy to libel in order to avoid a prison sentence and were cautioned and discharged by a Freetown court.
28. On 2 January 2014, Criminal Investigation Department (CID) officers arrested and detained human rights activist and radio presenter David Tam-Baryoh for several hours. This followed a complaint by a minister regarding a text the minister had received from Tam-Baryoh. A court deemed Tam-Baryoh's text, which was seeking clarification on the minister's threat "deal with him" and shut down his station, to be seditious libel.
29. On 15 January 2014, CID officers arrested Julious Spencer of Premier Media and Alusine Sesay of *Premier News*, respectively. This followed the Information Minister's complaint, alleging defamation. While the journalists were in custody, police raided the offices of Premier Media and confiscated their equipment, including computers.
30. On 11 February 2014, Theophilus Gbenda of Culture Radio was arrested and detained for seditious libel. This followed a broadcast

in which his guest commented about a land case, irritating the Vice President.

### **Sierra Leone Has Failed to Uphold Freedom of Expression in Other Ways.**

31. Sierra Leone must make much more progress towards “uphold[ing] the right to freedom of expression and assembly.”<sup>4</sup> Over the last four years, state and non-state actors have physically, verbally, and legally attacked free expression actors and censored free expression.
32. Based on the large number of violations since Sierra Leone’s first UPR, it is difficult to believe this recommendation has been or is being implemented effectively. Problematically, only one recommendation from the first UPR referred to the broad, fundamental right to freedom of expression.

#### ***Physical Attacks (14 incidents)***

33. On 12 June 2011, Ibrahim Foday of *Exclusive Newspaper* was stabbed to death while covering a violent clash over a land dispute between Grafton Town and Kossoh Town for the. Before his death, he had previously published critical articles about the dispute. His was the first journalist fatality in Sierra Leone since 2005. On 3 November 2012, Tunde Williams was arrested for this crime; four years later today, the trial has yet to proceed.
34. On 13 June 2011, three APC assailants attacked Mohamed Kai of *The Satellite*. The assailants were sent to harm him for his stories about the APC.
35. On 1 July 2011, James Fofanah, the president of the Sierra Leone Football Association (SLFA), attacked Alhaji Koumba of the Sierra Leone Broadcasting Corporation (SLBC) in Bo for criticising the SLFA.

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<sup>4</sup> Sierra Leone considers that it has already implemented or in the process of implementing this recommendation. Report of the Working Group on the Universal Periodic Review of Sierra Leone, A/HRC/18/10, ¶ 81.45 (by Netherlands).

36. On 2 July 2011, an unknown assailant attacked sports reporter Frances Bernard during a Premier League football match for expressing her opinion about the Lone Star team trainer on radio.
37. On 3 September 2011, two presidential guards attacked four sports journalists—Mohamed Fajah Barrie of the BBC, Kemoh Sesay of *Exclusive Newspaper* and Universal Radio, Alhaji Tarawallie of Premier Tok Radio, and Sulaiman Storm Koroma with Radio Democracy. Barrie, the target of the attack due to his condemnation of threats against sports journalists, was beaten unconscious; the others were injured while trying to rescue Barrie.
38. On 11 November 2011, secondary school teachers and pupils attacked four journalists of the community Radio Wanjei. They were pelted with sticks and stones and the station vehicle's windshield was shattered. They had gone to the school to investigate its admission policy.
39. On 30 November 2011, two pastors attacked Abdul Karim Fonti Kabia of *Sierra Leone News Hunters*. Kabia had published a story about the church leader, Reverend Darlington Morrison, warning him to refund 80 million Leones (US\$20,000) to a businesswoman; but he had never published anything about his two attackers.
40. On 12 March 2012, supporters of the SLPP attacked Jerry Cole of the SLBC. Cole and a journalist colleague had gone to interview SLPP officials about voter registration.
41. On 19 March 2012, Sadiq Sallah, the Chairman of Pujehun District Council, stormed the office of community Radio Wanjei, and seized their broadcasting equipment. This attack followed an alleged breach of a contract with the Council. The radio remained off the air for at least eight days.
42. On 19 July 2012, politician John Raka Conteh attacked community Radio Gbath. The moderator, Ibrahim Abdul Conteh (no relation), asked the politician to turn off his microphone after he diverged from the programme's topic. While the politician attacked the moderator, two of his supporters used broken bottles to vandalise the studio and damage equipment, including a laptop, digital recorders, and external hard drives.

43. Around 11 January 2014, police raided the *Independent Observer*, seized computer equipment, and arrested journalist N'Fa Allie Turay. Turay was released after several hours of interrogation.
44. On 10 July 2014, seven unknown men attacked music producer Joseph Richard Abdulai. This attack followed an album he had produced featuring songs about mineral exploitation, corruption, and tribalism.
45. On 19 July 2014, three unknown individuals attacked Joseph Richard Abdulai again in Freetown. He said he had received an anonymous death threat via phone prior to the attack.
46. On 7 March 2015, an alleged policeman stormed Citizen Radio to arrest Tamba Fanday, who went into hiding for fear of being arrested and detained under 4 December 2014 presidential executive order. Fanday, however, was still in hiding.

#### ***Arbitrary Arrests and Detentions (3 incidents)***

47. On 5 October 2014, Ibrahim Ganda of the Liberian station Radio Vaahun was arrested while traveling to Radio Moa in Kailahun District, bordering Liberia. On 9 October, a court gave Ganda the choice of paying one million Leones (US\$200) or serving a four-month prison sentence. Ganda paid the fine and returned to Liberia.
48. On 3 November 2014, David Tam-Baryoh was arrested and detained for incitement pursuant to an executive detention order and detained. He was released on a 50 million Leones bail (US\$10,000) without charge on 14 November. Many believe he was actually arrested to prevent his further criticism of the government's handling of the Ebola crisis.
49. Around February 2015 end, Tamba Fanday, the station manager for Citizen Radio in Koidu Town, went into hiding for fear of being arrested and detained under a presidential executive order. Fanday suspects he is wanted because of comments he made about youth arrests and governance issues.



### **Threats (5 incidents)**

50. On 2 July 2011, two Sierra Leone Port Authority (SLPA) staffers threatened Ibrahim Kalokoh of *For Di People*. The death threats followed the newspaper's allegations of corruption of the SLPA's general manager.
51. In October 2012, the SLPP harassed a journalist covering a political party rally and published threats against APC-sympathetic journalists in its official newspaper.
52. On 11 June 2013, Sylvia Blyden, a special executive assistant to President Koroma, warned that the government would charge unprofessional journalists with libel unless the IMC "maintain[ed] sanity in the media." She also warned the media to "prepare for a massive and long overdue sanitisation." These comments followed articles accusing the Koroma administration of tribal favouritism in selecting military commanders. Blyden also discussed the Truth and Reconciliation Commission's Report and threatened legal action against any journalist who portrayed the APC as "working against South-Easterners." The war heavily affected the diamond-rich southern and eastern region.
53. On 10 May 2014, the Minister of Defence threatened Edward Marah of *The Informant*. This followed Marah's publications alleging the minister had misappropriated funds.
54. On 17 February 2015, the Parliament Majority Leader warned journalists to stop discussing the Auditor General's Report on the management of the Ebola Fund.

### **Bans and Censorship (3 incidents)**

55. Following the police brutality of September 2011, the government banned all political demonstrations until 12 December 2011.
56. On 30 October 2011, police blocked the sale and distribution of *The Global Times* after confiscating copies for allegedly breaching the peace of Koinadugu District. The seized edition contained an article criticising Alhaji Allie Batorma Sheriff, a SLPP former chairman, for defecting to the APC.

57. On 12 April 2013, the IMC suspended the license of the privately-owned Afri Radio without reason. This was reportedly ordered by President Koroma.

## **MFWA'S RECOMMENDATIONS**

### **TO THE GOVERNMENT OF SIERRA LEONE**

#### **To Law Enforcement**

58. Uphold freedom of expression and freedom of assembly.
59. Sensitise police and security forces on protecting freedom of expression and on the role of journalists in promoting human rights, democracy, and development.<sup>5</sup>
60. Develop and implement guidelines for police and security forces prohibiting violence against journalists and others exercising their free expression and assembly rights.
61. Develop and implement guidelines for police on crowd control that conform to international principles, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Guidelines must clearly indicate when it is and is not permissible to use force and/or firearms, including teargas, to disperse demonstrations.
62. Investigate abuses, particularly the use of excessive of force, involving the police.<sup>6</sup>
63. Hold police accountable for abuses through internal mechanisms and external mechanisms, such as supporting criminal investigations into police brutality.

#### **To the Judiciary**

64. Stop issuing excessive punitive fines, which tend to have a chilling effect on freedom of expression.

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<sup>5</sup> Sierra Leone accepted this recommendation. See A/HRC/18/10, ¶ 80.10 (by Uganda).

<sup>6</sup> Sierra Leone considers that it has already implemented or in the process of implementing these two recommendations. See A/HRC/18/10, ¶ 81.40 (by Switzerland); A/HRC/18/10, ¶ 81.57 (by Mexico).

### **To Parliament**

65. Repeal the criminal libel provisions in The Public Order Act of 1965.
66. Decriminalise libel, and classify libel as a civil tort instead of a criminal offense.
67. Enact civil defamation laws that: are protected from government abuse, ensure defendants can mount a proper defence, and set reasonable limits on compensation to the plaintiff.

### **To Public Authorities or Persons Providing Services for Public Authorities**

68. Raise awareness on the right to information and educate the public on how they can access public information.
69. Sensitise information holders on their directive to provide access to public information.

### **TO THE WORKING GROUP ON THE SECOND UPR OF SIERRA LEONE**

70. Make more recommendations related to the protection and promotion of free expression rights.
71. Reemphasise the importance of decriminalising defamation.