



West Africa Free Expression Monitor

January-June 2016



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EXECUTIVE SUMMARY

The freedom of expression and media rights situation in West Africa has improved significantly over the past two decades. Many of the dictatorial and authoritative regimes have given way to democratic dispensations which have largely contributed to an improved freedom of expression environment in a number of West African countries. Civil society advocacy, particularly the work of the Media Foundation for West Africa (MFWA), has also contributed to the improvements being witnessed in the region today.

The MFWA has been monitoring and reporting on violations of free expression rights in all 16 countries for the past 19 years. The monitoring reports highlight incidents of freedom of expression (FoE) violations; introduction, review or reform of laws affecting FoE rights; and other positive developments. The reports also make recommendations to the appropriate authorities for remedial action(s) to be taken.

Since 2014, findings of the MFWA's monitoring activities are collated and analysed into quarterly publications titled, *West Africa Free Expression Monitor (The Monitor)*. This edition of *The Monitor* covers findings from the monitoring and tracking of FoE violations and other developments in the first two quarters of 2016 (January-June, 2016). The daily monitoring and tracking of FoE violations are done by seasoned journalists who work as correspondents for the MFWA in the 16 countries.

In the period under review (January-June 2016), 44 FoE violations were recorded. The findings show an impressive 41% reduction (in the incidents of violations recorded over the monitoring period (January-June 2016) compared to the 75 violations reported during the same period the previous year (January to June, 2015). While the substantial reduction is positive, the absence of redress for nearly all the violations recorded is equally disturbing. Indeed, only one out of the 44 FoE violations received remedial action – the arrest and trial of 18 people for the murder of a Guinean journalist, El Hadj Mohamed Diallo.

Physical attacks, arbitrary arrests/detentions and threats were the most dominant categories of FoE violations recorded over the January-June 2016 monitoring period. The most heinous form of FoE violation, murder, was also recorded in Guinea and The Gambia.

Nigeria registered the highest number of violations, followed by Ghana and Guinea. In terms of perpetrators of FoE violations, Security agents were the worst offenders. They accounted for nearly 50% - 21 of the 44 violations reported. They were followed by state officials. While the recorded incidents of violations are worrying for a region where most of the countries are under democratic rule, the impunity that attends the violations is rather appalling.

On the positive side, the report highlights the landmark ruling of the African Human Rights Court that awarded damages to Lohe Issa Konaté, a Burkinabe journalist who was wrongfully convicted and imprisoned for a year in 2012. Finally, the report makes a number of recommendations to stakeholders urging them to address the FoE challenges in the region.



Introduction and Background

Many of the autocratic and dictatorial regimes that dominated the West Africa region in the early 90s have given way to democratic governments. These changes have encouraged greater participation of citizens in the governance of their respective countries. Consequently, fundamental rights such as the right to free expression, association and assembly have been enshrined in the respective national constitutions.

In practice, however, some of the old autocratic tendencies persist and this has largely emboldened state officials and security agents to violate people's free expression rights with impunity. Some countries also have criminal libel laws still in their statutes and some governments use state security apparatus to intimidate critics. In some cases, the judiciary delivers severe sentences against journalists in order to deter critical reportage. Some governments also exploit "national security" legislations to deny journalists and citizens the legal basis to demand transparency and accountability from public office holders.

The violations that are perpetrated as a result of these unfavourable conditions come in a wide range of forms. The most common forms of violations include physical attacks, arbitrary arrests and detentions, threats, killings, and imposition of crippling fines, even in civil defamation suits.

For nearly two decades, the MFWA has been monitoring and reporting on media and freedom of expression (FoE) rights violations and other developments in West Africa. The organisation has also been reporting on freedom of association and assembly violations. The monitoring and reporting of these rights violations are aimed at spotlighting abuses, demanding redress and providing documentary evidence to inform advocacy interventions.

The monitoring and reporting of FoE abuses and freedom of association and assembly violations by the MFWA are informed and guided by provisions in international, regional and sub-regional human rights frameworks that most West African countries are parties and/or signatories to. Specifically, all 16 countries in the region are parties to the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights both of which have provisions for safeguarding FoE and freedom of association and assembly rights. Article 9 of the African Charter, for instance, states that "Every individual shall have the right to receive information" and "Every individual shall have the right to express and disseminate his opinions within the law." In terms of the right to freedom of association and assembly, Article 11 of the African Charter states *inter alia* that "every individual shall have the right to assemble freely with others." Apart from these international, regional and sub-regional instruments, all the 16 countries in the region have provisions in their national constitutions which guarantee freedom of expression and assembly.

The MFWA's monitoring and reporting, therefore, focus on the extent to which these international, regional and sub-regional safeguards, as well as FoE provisions in national Constitutions, are respected and upheld in principle and in practice. Findings from the daily monitoring are published as **Alerts** to draw attention to the issues identified for remedial action.



In 2014, the organisation introduced the *West Africa Free Expression Monitor (The Monitor)*, a quarterly publication that collates and analyses FoE violations, rights to association and assembly abuses and other developments in the region. *The Monitor* has since been serving as an advocacy material for the promotion, defence and protection of media and FoE rights.

This edition of *The Monitor* covers two quarters – January to March, and April to June, 2016. The six-month monitoring report highlights the frequency of violations recorded, the types, perpetrators, and the countries in which the violations occurred.

Methodology

This report is compiled using data from the monitoring reports received from MFWA's correspondents in the various countries. To ensure that other violations not captured by our correspondents are factored into the analysis, additional information was obtained from the IFEX¹ website which features incidents of violations in the region reported by other free expression rights organisations that are members of the IFEX network.

The report is also guided by the UNESCO Journalists' Safety Indicators. Specifically, the safety and impunity statistics indicators informed the coding of the violations.

Altogether, 44 violations were recorded over the six-month monitoring period. The findings are presented below under the following areas: country-level violations, types of violations, perpetrators, targets of violations and a brief comparative analysis of the findings with those of the corresponding period in 2015. Notable freedom of expression and press freedom developments observed in the course of the six-month monitoring are also highlighted. The report concludes with a number of recommendations that will facilitate the nurturing of a progressive media landscape and freedom of expression conditions in the region.

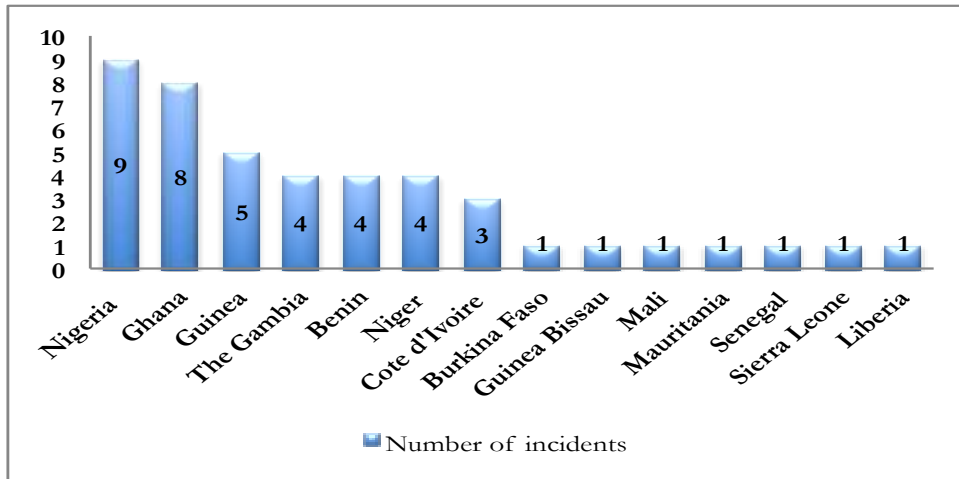
Country-level Freedom of Expression Violations

Freedom of expression rights violations were reported in 14 countries out of the 16 West African countries. The 14 countries in which FoE violations were recorded were Benin, Burkina Faso, Cote d'Ivoire, Ghana, Guinea and Guinea Bissau. The rest were Liberia, Mali, Mauritania, Nigeria, Niger, Senegal, Sierra Leone and The Gambia. Cape Verde and Togo did not record any incident of FoE violation. While Cape Verde has been known to enjoy high levels of freedom of expression and press freedom conditions for several years, the situation in Togo is not the same. Severe crackdown on the Togolese media in the past and recent times has led to self-censorship. The self-censorship is reflected in lack of critical reporting and also limited reporting about FoE violations.

¹ IFEX is the global network of nearly 100 freedom of expression organisations including the MFWA. From its headquarters in Toronto, Canada, IFEX collates and publishes reports on freedom of expression violations from its members.

Of the 14 countries that recorded violations, Nigeria recorded the highest number (9) of violations followed by Ghana (8). Guinea followed with 5 incidents. Three countries; Benin, The Gambia and Niger, followed with four incidents each. Figure 1 below provides additional information on the frequency of violations recorded from January to June, 2016 in all the 14 countries concerned.

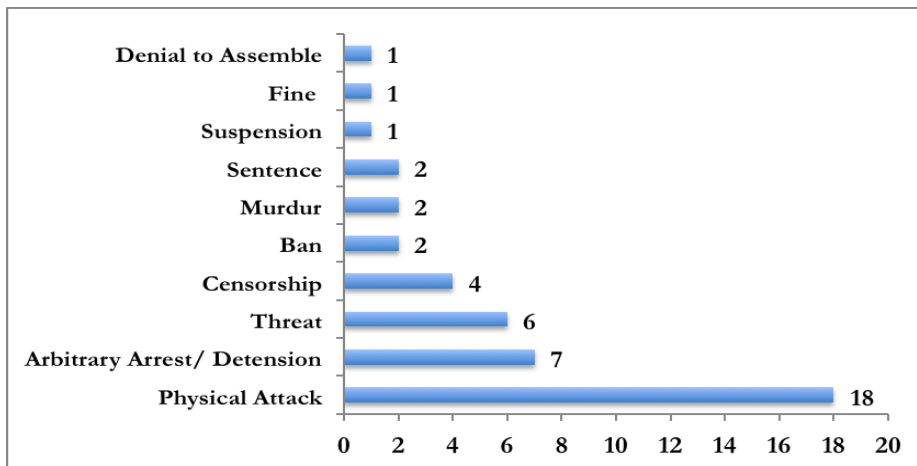
Figure 1: Country and Frequency of Violations Recorded



Types of Violations

Twelve different categories of FoE violations were coded over the January-June 2016 monitoring period. Physical attack was the most common form of violation, followed by arbitrary arrest and detention, and then threats. The most heinous form of violation, murder, was also reported on two occasions, one in Guinea and the other in The Gambia. In Figure 2 below, details of all the 12 categories of FoE violations and the frequency of incidents of each are presented.

Figure 2: Types of Violations Recorded



Physical attacks were reported in 10 countries. Nigeria reported six physical attacks while Ghana reported three and Guinea, two. Arbitrary arrests and detention were reported in five countries with The Gambia and Niger registering two each. In terms of threats, Ghana recorded 4 out of the six reported incidents. Additional breakdown information on the categories of FoE violations recorded in the various countries is presented in Table 1 below.

The severest form of violation, murder, was recorded in Guinea and The Gambia. In the case of Guinea, El Hadj Mohamed Diallo, reporter for the news website, Guinée7, was shot dead on February 5, 2016 while covering a violent confrontation between two factions of a political party, Union des Forces Democratiques de Guinee (UFDG) party. It is not known where the bullet was shot from and whether or not Diallo was the target. However eighteen persons have been arrested and are standing trial for the crime. In the case of The Gambia, an opposition leader, Solo Sandeng was arrested on April 14, 2016 while leading a protest to demand electoral reforms in The Gambia. While in custody, he was allegedly tortured leading to his death on April 16. While government and security officials have confirmed his death, the whereabouts of his remains is unknown.

Table 1 below provides a breakdown of all the FoE violations recorded in each of the 14 countries that reported violations.

Table 1: Country and Types of Violations Recorded

Country	Type of Violation										Total
	Murder	Physical Attack	Arbitrary Arrest/ Detention	Threat	Sentence	Ban	Suspension	Fine	Censorship	Denial to Assemble	
Nigeria		6	1						2		9
Ghana		3		4					1		8
Guinea	1	2			1			1			5
The Gambia	1	1	2								4
Benin		1		1					1	1	4
Niger			2		1	1					4
Cote d'Ivoire		1		1		1					3
Burkina Faso							1				1
Guinea-Bissau		1									1
Mali		1									1
Mauritania			1								1
Senegal			1								1
Sierra Leone		1									1
Liberia		1									1
Togo											0
Cape Verde											0
Total	2	18	7	6	2	2	1	1	4	1	44



Perpetrators of Freedom of Expression Violations

From the data gathered, seven categories of perpetrators were identified for carrying out the 44 FoE violations. These were security agents, organised groups, state officials, and regulatory bodies. The others were courts, individuals and media owners/managers.

Security agents continue to dominate as the perpetrator of FoE violations. Almost 50 percent (21) of the 44 violations reported was carried out by security agents. In Nigeria, security agents accounted for 7 of the 9 incidents reported in Nigeria, and all the four violations in The Gambia. With the exception of Burkina Faso, Cote d'Ivoire, Liberia, Mali and Sierra Leone, security agents accounted for at least one of the violations recorded in seven other countries.

State officials were the second most dominant perpetrators of freedom of expression violations. They accounted for seven of the violations recorded. These violations included physical attacks, threats and disruption of a television programme.

Organised groups perpetrated five incidents of violations. In Ghana, an organised group of clients of a collapsed microfinance company attacked Jerryson FM in two separate incidents, threatened to kill staff of the radio station; and forced the radio station to close down for a number of days. The mob reportedly acted on information that the director of radio station was the owner of the collapsed microfinance company. In Cote d'Ivoire, a group of unknown persons attacked the home of Baudelaire Mieu, a critical freelance journalist and stole his laptop while other valuables in his house were left untouched. A group suspected to be militants from the Niger-Delta part of Nigeria attacked Rhythm FM and robbed workers of their mobile phones and money. In Mali, football fanatics attacked the home of a sports presenter and injured his wife and neighbour.

The courts followed with four incidents. In 2014, while pronouncing judgement on the Lohe Issah Konaté case, the African Human rights Court said that freedom of expression offences should not be criminalised. In spite of the ruling, a court in Guinea sentenced a caller of a radio programme to a year in prison for “insulting the head of state”. The host of the radio programme was also sentenced to a fine. A High Court in Niger also handed a civil society activist a six month suspended sentence for criticising the government’s response to the Boko Haram insurgency in the country. In Nigeria, a Magistrate court barred journalists from covering a case.

This was followed by individuals with three reported incidents. Violations perpetuated by individuals included a physical assault by a footballer against a female sports journalist in Sierra Leone; a threat by an unknown person against a journalist in Cote d'Ivoire; and a physical attack on a journalist in Liberia by three individuals for refusing to delete a video of a brawl between a lawmaker and some spectators during a football match.

Political party supporters and affiliates were also found to have perpetrated two FoE violations. In Guinea, a political party affiliate killed a journalist while he was covering a conflict at the party office. Political party affiliates in Ghana attacked a radio presenter of Fox FM after a member of their party made a comment they considered offensive.

Table 2 below provides more information on specific perpetrators responsible for the incidents of violations reported in the countries where FoE violations were cited.

Table 2: Country and Type of Perpetrator

	Type of Perpetrator							Total
	Security Agencies	State Official	Political Party Affiliate	Individuals	Organised Groups	Regulatory Bodies	Courts	
Nigeria	7				1		1	9
Ghana	2	3	1		2			8
Guinea	2	1					2	5
The Gambia	4							4
Benin	2	2						4
Niger	1	1	1				1	4
Cote d'Ivoire		1		1	1			3
Burkina Faso						1		1
Guinea-Bissau	1							1
Mali					1			1
Mauritania	1							1
Senegal	1							1
Sierra Leone				1				1
Liberia				1				1
Togo								0
Cape Verde								0
Total	21	8	2	3	5	1	4	44

From Table 2 above, it can be seen that one violation was recorded against a regulatory body in Burkina Faso. In this incident, the regulatory body, Conseil Supérieur de la Communication (CSC), suspended an investigative magazine *L'Évènement* for a month without a hearing. The sanction followed a report in the February 10, 2016 edition of the magazine which the CSC said amounted to “revealing military secrets.” Interestingly, a military tribunal in Ouagadougou had earlier summoned the magazine’s director of publication Germain Nama Bitiou and editor Newton Hamed Barry on February 18 and discharged them after a brief hearing. On February 19, however, the CSC issued a release suspending *L'Évènement* for a month without a hearing.

Targets/Victims of Violations

The 44 violations recorded were mainly targeted at individual journalists (males and females), media organisations and the general public. Some of the incidents reported affected the media landscape while others cut across all sections of society in the affected countries. For instance, in Ghana the Inspector General of Police (IGP) threatened to ban social media during Ghana’s upcoming elections in December 2016. According to the IGP, people were using social media to perpetrate misinformation, which has the potential of jeopardizing the peace of the country during the elections. Despite several calls by civil society and the general public, the IGP has maintained his

stance and reiterated that social media will be blocked during Ghana's elections. It is estimated that there are eight million social media users in Ghana. If the IGP carries out his threat, all the eight million people, as well as those who rely on social media users for information will be affected.

Altogether, 28 incidents of violations were targeted at male journalists; two were against female journalists while five were targeted at both sexes. Media organisations were victims of 4 incidents.

Information about the other victims of the violations recorded and the type of violation perpetrated against them is given in Table 3 below:

Table 3: Targets and Types of Violations

Type of Violation	Type of Violation							Total
	Male	Female	Male & Female	Media Organisation	All Media	All Persons	Political Party/Affiliate	
Physical Attack	11	1	3	2	1			18
Arbitrary Arrest/Detention	6		1					7
Threat	4			1		1		6
Censorship			1	1	2			4
Killed	2							2
Sentence	2							2
Ban	1	1						2
Suspended	1							1
Fine	1							1
Denial to Assemble							1	1
Total	28	2	5	4	3	1	1	44

It must be noted however, that the number of targets presented in Table 3 above refer to the direct objects of the 44 violations and not the number of persons affected (directly and indirectly) by the violations. For example under all persons, the figure given is 1 (representing one incident). However as explained earlier, the particular incident which involves the threat of shutting down social media will affect as many as eight million Ghanaians who use social media. There was also an incident where a political party in Benin was denied permission to assemble. This violation affects all supporters that were going to join the meeting. There were incidents where media organisations present at events were subjected to abuse. In such cases, it was difficult to quantify the number of media organisations affected.

Comparative Analysis of Findings from the First half of 2015 and First Half of 2016

Even though the 44 FoE violations reported over the January-June 2016 monitoring period is significant, it reflects a drastic reduction in incidents of FoE violations over the same period the



previous year (January – June, 2015). In the January-June 2015 findings, a total of 75 violations were recorded whereas the same period in 2016 recorded a total 44 violations. The difference of 31 between the two periods (January-June 2015 and January-June 2016) represents a notable decrease of 41 percent.

In spite of the impressive reduction in FoE violations, the trends in terms of the types of violations, perpetrators and the countries that often recorded violations did not change much. Physical attacks, arbitrary arrests/detentions, sentencing, censorship, and denial of the right to assemble were the types of violations that persisted under both periods. Physical attacks against journalists, media organisations and civil society actors in both periods were rife and came up as the major violation perpetrated. Arbitrary arrests and detentions followed as the second highest FoE violation perpetrated under both periods.

Both periods also recorded the worst form of violation, murder. However one incident of murder was recorded from January-June 2015 as against two incidents in the January-June 2016 period.

In terms of perpetrators, security agents and state officials were found to be the main actors who carried out most of the FoE violations reported under both periods. For the countries, Nigeria, Ghana and Guinea remained the top three violators under both periods. Even though the violations in Nigeria reduced significantly under the January-June 2016 period, the country was still in the lead. Table 4 shows the incidents of violations recorded in the various countries under the two periods.

Table 4: Country and Frequency of Violations in the First and Second Halves of 2015

Country	Frequency	
	January - June 2015	January - June 2016
Nigeria	20	9
Ghana	6	8
Guinea	7	5
The Gambia	10	4
Benin	6	4
Niger	13	4
Cote d'Ivoire	1	3
Burkina Faso	1	1
Guinea Bissau	1	1
Mali	1	1
Mauritania	0	1
Sierra Leone	3	1
Liberia	0	1
Senegal	4	1
Togo	2	0
Total	75	44

As shown in Table 4 above, there were notable decreases in the incidents of violations recorded in the countries cited. Niger registered the highest reduction; from 13 in January-June 2015 to 4



incidents in January-June 2016, representing a 69 percent reduction. Nigeria also recorded a significant decrease of 55 percent (20 in 2015 as against 9 in 2016).

The Gambia which recorded 10 incidents from January-June 2015, recorded four incidents from January-June 2016. However the reduction in the number of incidents does not necessarily reflect an improvement in the freedom of expression conditions in the country. For example, in one incident of arbitrary arrest, security agents arrested dozens of persons who were demonstrating for electoral reforms which led to the death of one of the protesters, opposition leader Solo Sandeng. The security agents in another incident arrested more than 20 people who were protesting the arrest of the protesters.

On the other hand, although Mauritania and Liberia recorded no FoE violation from January-June 2015, they each recorded one incident from January-June 2016. In the case of Togo which recorded two incidents in 2015, no incident was reported in the period of 2016.

Notable Freedom of Expression Developments

In the course of the six months (January – June 2016) monitoring of FoE violations, a number of issues have been identified in the FoE environment in West Africa that need attention. Forty-four incidents of FoE violations occurred in 14 of the 16 countries in the region. However, only one incident is in the process of being remedied – 18 people are currently standing trial for the murder of Guinean journalist El Hadj Mohamed Diallo. The remaining 43 remain unresolved. Even in specific cases where requests and petitions were made to demand redress actions, the violations were treated with impunity. A case in point is that of Abdoulie Ceesay of The Gambia. Ceesay was arrested on July 2, 2015 over allegations of sharing a picture of Gambian President Yahya Jammeh with a gun pointed at him. The MFWA and other organisations [appealed](#) to authorities in the country but the calls were not heeded. The Gambian authorities even ignored calls by the UN Human Rights Council's Working Group on Arbitrary Detentions to release Ceesay. The MFWA and 36 organisations across the globe subsequently [petitioned](#) the chair of the African Union and the UN Special Rapporteur on Freedom of Expression and Opinion on March 3, 2016 to put pressure on the Gambian government to release the journalist. The MFWA's sources indicated that the African Union had begun discussions with the State when on April 20, the journalist escaped from a hospital while being treated for alleged torture.

In Mauritania, a journalist, Pape Khalilou Diop who presents news in Wolof (one of Mauritania's four national languages) on the state-owned Radio Rurale, mispronounced the Arabic name of the first lady Mariem Mint Ahmed and was summarily dismissed from his post. The MFWA noted that Diop's dismissal was arbitrary, harsh and unnecessary. While there have been several calls for the state broadcaster to reinstate Diop, nothing had been done about the incident at the time of writing this report.

Another issue of concern noted in the course of the monitoring is the increasing cases of media unprofessionalism which cuts across all the countries in the region and which has sometimes resulted in media regulatory bodies in several countries penalising journalists and media



organisations for ethical breaches. For instance, in Sierra Leone, 11 newspapers and three radio stations were suspended for failing to comply with the Code of Practice of state regulatory body, the Independent Media Commission. The Conseil National de la Presse, the press regulatory body in Cote d'Ivoire also suspended some newspapers and journalists for ethical breaches. In all these instances, the MFWA's correspondents indicated that the media in question indeed erred and that their sanctions were in line with provisions of these regulatory bodies.

In a positive development, the African Human Rights Court on June 3, 2016, ruled that Burkina Faso should pay US\$70,000 in compensation to Burkinabe journalist, Lohé Issa Konaté, following his wrongful conviction and imposition of crippling fines for criminal defamation and subsequent one-year detention in 2012. The Court in its earlier ruling also ordered Burkina Faso to scrap its criminal libel laws – a judgement which is binding on all African Union member states. The decision by the African Human Rights Court caps a historic landmark ruling on human rights issues on the continent.

Conclusion

Provisions in the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples' Rights, the ECOWAS Protocol on Democracy and Good Governance and the Constitutions of the various countries in the West African region all recognise the right to freedom of expression as a condition for building a dynamic and progressive society. They also show that there are adequate legal guarantees for the enjoyment of this right by individuals without fear or interference from any sources. The 44 violations of freedom of expression rights captured in this report are, therefore, not only in breach of these instruments, but also an indication of the urgent need for translating the charters, treaties, covenants and national constitutions into actual implementation.

By their mandate, state actors such as security agencies, state officials and regulatory bodies, should respect, protect, and promote the right to freedom of expression by all persons. However, as shown in the findings above, they are often among the top violators. This unfortunate situation is increasingly creating a culture of impunity in the region, thus undermining the covenants, protocols, charters and constitutional provisions for FoE that many of the West African countries have assented to.

The incidents of murder, physical attacks, arbitrary arrests/detentions, suspensions and other violations against journalists, media organisations and civil society activists are detrimental to critical journalism, free speech and democracy. These violations promote a culture of self-censorship and impunity which often create a fertile environment for corruption and abuse of power. The violations contained in this report must therefore be seen as threats to social peace and, as such, tackled within the broader context of national, regional and international peace building efforts. To this end, a number of recommendations have been made to relevant stakeholders to help improve the freedom of expression environment in the region.



Recommendations

Governments in West Africa

- Ensure that both state and non-state actors respect and protect the right to freedom of expression.
- Promote the safety and protection of journalists and media organisations.
- Ensure that security agents stop violating the rights of journalists and others exercising their right to freedom of expression. Specifically, police and security forces must cease committing acts of physical attacks, arbitrary arrests and detentions, and threats against persons.
- Train security agents to appreciate the work of the media in democratic societies and to work collaboratively with them.
- Hold accountable culprits (both state and non-state actors) of freedom of expression violations through criminal, civil, administrative, or other sanctions to combat impunity.
- Implement the binding judgment of the African Court in the case of *Lobé Issa Konaté v. Burkina Faso* and amend criminal defamation laws.

The ECOWAS

- Encourage Member States to “ensure respect for the rights of journalists” as stated in Article 66 of the ECOWAS Revised Treaty entreats Member States.
- Impose and enforce sanctions on Member States that recalcitrantly flout statutory obligations.
- Impose and enforce sanctions on The Gambia for its persistent non-compliance and violations of its statutory obligations.
- Independently investigate freedom of expression violations in the various countries.

African Commission Special Rapporteur on Freedom of Expression and Access to Information

- Undertake fact-finding missions in the countries in West Africa.
- Monitor compliance of West African countries with the binding *Lobé Issa Konaté* judgment of the African Court concerning decriminalisation.
- Make an intervention in The Gambia and denounce the gross and systematic human rights violations and culture of impunity under President Yahya Jammeh.

To the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion



- Call on the governments in West Africa, particularly in countries where violations have been recurring, to respect and protect freedom of expression rights.
- Include more West African countries in fact-finding missions.
- Visit the countries in West Africa that have standing invitations to all thematic special procedures: Benin, Cape Verde, Ghana, Guinea-Bissau, Niger, Nigeria, and Sierra Leone.

Media Organisations and Journalists

- Work with high standards and professionalism at all times.
- Media managers and owners must report violations against media organisations and journalists.
- Media managers must commit to promoting the safety of journalists by using all legal means to bring justice to media persons whose rights are violated in the line of duty.