



West Africa Free Expression Monitor

July-September 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. The democratic dispensations adopted in the early 90's have expanded the space for free expression and the enjoyment of other fundamental human rights. Civil society advocacy, particularly the work of the Media Foundation for West Africa (MFWA), has contributed significantly to the improvements being witnessed in the region today.

The MFWA has been monitoring and reporting on violations of free expression rights in the 16 West African countries for the past 19 years. The daily monitoring and tracking of FoE violations are done by seasoned journalists who work as correspondents for the MFWA in the 16 countries. Reports from the monitoring usually highlight physical attacks against the media; introduction, review or reform of laws affecting FoE rights positively or otherwise and other developments in the freedom of expression (FoE) environment in the region. The reports also make recommendations for remedial action(s) and reparations.

The MFWA has been analysing and collating the monitoring reports into quarterly publications titled, *West Africa Free Expression Monitor (The Monitor)*. The Monitor presents a broader scope of the freedom of expression situation in the region as it maps out emerging and developing trends and practices. The present edition of The Monitor covers findings from the monitoring and tracking of FoE violations and other developments in the third quarter of 2016 (July-September, 2016).

Twenty-five FoE violations were recorded in the period under review, a reduction of about 44 percent compared to findings of the corresponding quarter of 2015 (July-September). The significant reduction is a welcome development. However, the lack of remedial action on almost all the cases continues to be a major setback. This level of impunity is gradually fostering self-censorship and repression in some countries such as The Gambia.

Introduction and Background

The wave of democratic changes that swept across West Africa at the beginning of the 1990's has largely improved the freedom of expression landscape in the region. The multi-party system of government adopted by most states in the West African region led to the passing of relatively more liberal press and free expression laws. This resulted in the proliferation of mass media, particularly radio, which continues to offer greater opportunities for citizens to express themselves on matters affecting their wellbeing. Consequently, citizens have become more conscious of their rights while governments have grown more tolerant of dissenting views.

Nonetheless, some of the old repressive tendencies have defied the change and remain a threat to democratic freedoms including freedom of expression, association and assembly. For example, criminal libel still exists in the criminal code of some countries. Some governments exploit state security apparatus to intimidate critics. In cases where speech offenses have been decriminalised, the judiciary delivers severe sentences against journalists in order to deter critical reportage.

The above-mentioned hangover from past autocratic regimes is largely responsible for the violations recorded in this report. The violations come in a wide range of forms, the most dominant being physical attacks, arbitrary arrests and detentions. Threats and even killings have also been used to intimidate and discourage critics.

To help bring these threats to freedom of expression to public attention and demand accountability for crimes against journalists, media organisations and dissidents, the MFWA has been monitoring daily FoE violations and other developments, and reporting on them in the form of *Alerts*. The *Alerts* are collated and analysed quarterly and published as the *West Africa Free Expression Monitor (The Monitor)*. Since its introduction in 2014, The Monitor has been serving as a reference material for the promotion, defence and protection of media and FoE rights.

The monitoring and reporting are informed and guided by provisions in international, regional and sub-regional human rights frameworks to which most West African countries are parties and/or signatories. 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, the primary focus of which is to safeguard 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," while Article 11 of the African Charter states, *inter alia*, that "every individual shall have the right to assemble freely with others." Additionally, all the 16 countries in the region have provisions in their national constitutions guaranteeing freedom of expression and of assembly.

This edition of *The Monitor* covers the period, July-September 2016. It highlights the FoE violations recorded—frequencies and the types—perpetrators, and the countries in which the violations occurred.

Methodology

This report is based on the daily monitoring reports received from MFWA's correspondents in the various countries. To make the report comprehensive, additional information was obtained from the

IFEX website which features incidents of violations in the region reported by other free expression rights organisations that are members of the IFEX network.

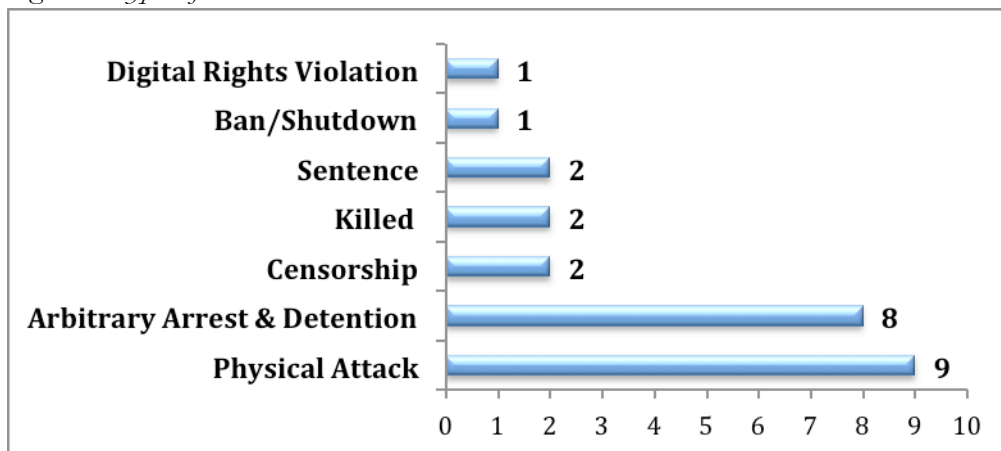
The report is also guided by the UNESCO Journalists' Safety Indicators. Specifically, the safety and impunity statistics indicators informed the coding of the violations.

Altogether, 25 FoE violations were recorded over the three-month monitoring period. The findings are presented below under the following sub-headings: country-level violations, types of violations, perpetrators of violations, and targets of violations. Also included in the report is a comparative analysis of the findings from the period under review (July-September, 2015) and that of the corresponding period in 2014 (July-September 2014). The report also highlights other freedom of expression and press freedom developments observed within the monitoring period. The report concludes with a number of recommendations aimed at fostering a progressive media and freedom of expression landscape in the region.

Incidents of Freedom of Expression Violations

After three months of monitoring the FoE situation in the region, 25 incidents of FoE violations were recorded. The violations occurred in a wide range of forms and with varying frequencies. Seven categories of FoE violations were recorded. The category with the highest number of reported incidents (9) was physical attacks, followed by arbitrary arrests and detentions (8). Regrettably, there were two incidents of murder in the period under review. Details about the aforementioned and other types of FoE violations cited are presented in Figure 1 below.

Figure 1: Types of Violations Recorded

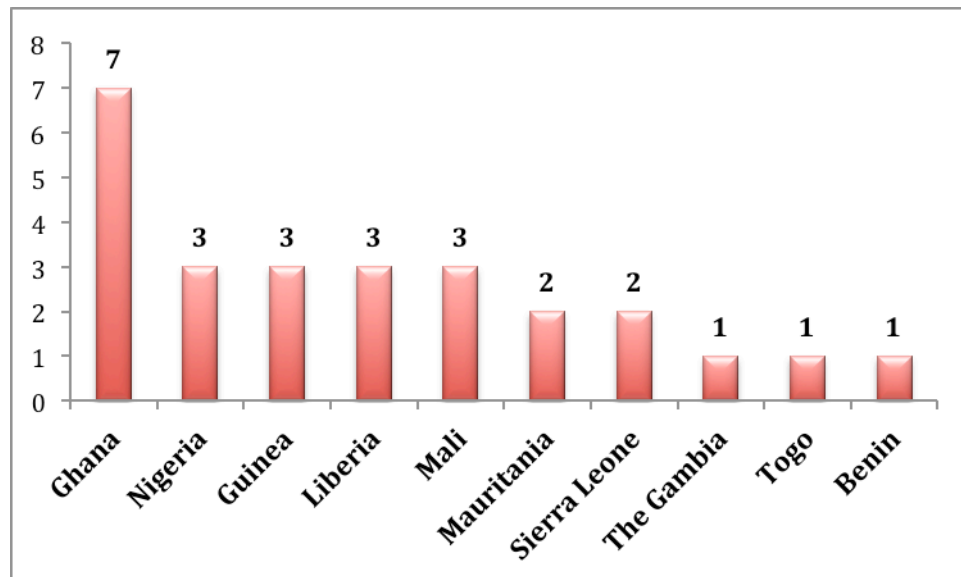


Countries and Incidents of Freedom of Expression Violations

Freedom of expression violations were reported in 10 countries. These were Benin, Ghana, Guinea, Liberia, Mali, Mauritania, Nigeria, Sierra Leone, The Gambia and Togo. Ghana reported the highest incidents of violations (7) followed by Guinea, Nigeria and Mali with 3 incidents each. The other

countries that recorded FoE violations and the frequencies of occurrence are illustrated in Figure 2 below.

Figure 2: Country and Frequency of violations reported



As indicated in Figure 2 above, there were no reported FoE violations in six countries: Burkina Faso, Cape Verde, Cote d'Ivoire, Guinea Bissau, Niger and Senegal. As reported in earlier editions of *The Monitor*, Cape Verde has a progressive freedom of expression environment and that explains why no incident of FoE violation has been recorded in the country since the introduction of *The Monitor*. On the other hand, the other five countries with no FoE incident in the period under review have recorded at least one FoE violations since 2014 when *The Monitor* was introduced.

Countries and Types of FoE Violations Recorded

The categories of FoE violations recorded in the 10 countries vary from country to country. Out of the nine incidents of physical attacks reported, four were reported from Ghana. The remaining five were recorded in five countries. In terms of arbitrary arrests and detentions, six out of the eight reported incidents were recorded in Ghana and Nigeria. It is worth noting that all the three violations reported from Nigeria were arbitrary arrests and detentions.

Two incidents of murder were reported in Sierra Leone and Mali. In both incidents, the victims were citizens exercising their right to demonstrate. In the Sierra Leone incident, a teenager was shot by police during a demonstration against the relocation of a job-training centre. While some of the demonstrators claimed the police fired into their peaceful demonstration, the police said the demonstration, though peaceful at the beginning, turned violent as the youth allegedly set fire to a building. The police, in response, fired tear gas and live bullets into the crowd, killing one and injuring many others. In the Mali incident, supporters of a popular journalist and activist, Mohammed Bathily, who had been arrested, received information that he was going to appear in court. The supporters gathered at the court and demonstrated when Mohammed Bathily did not

show up. The Police were called to the scene to calm the situation. However they fired live bullets and tear gas, killing one person and injuring dozens.

Mauritania and The Gambia recorded the two sentencing incidents reported in the period under review. In Mauritania, civil society activists who spoke against the eviction of a slum community were accused of joining the community in a violent demonstration and jailed between two and 15 years. In The Gambia, 19 persons were each sentenced to three years imprisonment for peacefully demonstrating without a permit. The convicted persons had been in detention since April 16 on seven-count charges of unlawful assembly, riot, incitement of violence, riotously interfering with traffic, holding a procession without a license, disobeying an order to disperse from an unlawful procession and conspiracy. Table 1 below shows the types of FoE violations reported from each of the 10 countries where incidents were recorded.

Table 1: Country and Types of FoE Violations Recorded

Country	Type of Violation							Total
	Killed	Physical Attack	Arbitrary Arrests/ Detention	Sentence	Ban/ Shutdown	Censorship	Digital Rights Violation	
Ghana	0	4	3	0	0	0	0	7
Nigeria	0	0	3	0	0	0	0	3
Mali	1	1	0	0	0	0	1	3
Guinea	0	1	1	0	0	1	0	3
Sierra Leone	1	1	0	0	0	0	0	2
Mauritania	0	0	0	1	0	1	0	2
Liberia	0	0	1	0	1	0	0	2
Togo	0	1	0	0	0	0	0	1
The Gambia	0	0	0	1	0	0	0	1
Benin	0	1	0	0	0	0	0	1
Total	2	9	8	2	1	2	1	25

Perpetrators of Freedom of Expression Violations

The FoE violations recorded over the three-month monitoring period were carried out by security agents, state officials, the courts and organised groups. Security agents were the highest perpetrators of FoE violations. Out of the 25 reported incidents, 20 (80%) were perpetrated by security agents. Security agents accounted for violations reported in eight out of the 10 countries where FoE violations were recorded. They perpetrated all the two cases of murder reported in Sierra Leone and Mali. In the remaining two countries (The Gambia and Mauritania), even though security agents were not the direct perpetrators of the violations recorded, they indirectly played a part. In the case

of The Gambia, the persons who were jailed for a peaceful demonstration by the court were first arbitrarily arrested and detained by security agents on April 16. Also in the case of the jailed persons in Mauritania, security agents arrested them in June leading to their sentencing in August.

State officials followed security agents with two reported incidents of FoE violations. In Mauritania, State officials prevented journalists of some media organisations deemed anti-government from covering the Arab League Summit. In Mali state officials caused a partial internet shutdown and later denied that they tampered with internet connection in the country. Coincidentally the interruptions in the internet occurred shortly after the police clashed with supporters of journalist and activist Mohamed Bathily.

Another two of the reported FoE violations were carried out by the courts in Mauritania and The Gambia. In Mauritania, 14 anti slavery activists were jailed between 2-15 years. Despite reports of no evidence of their direct participation, the activists were accused of being part of violent demonstrations. In The Gambia case, a High Court jailed 19 opposition members for organising a peaceful demonstration in protest of one of their members who had died while in custody.

In Ghana, a group of football fans attacked two journalists, Gomes Pageh and Emmanuel Opoku Tinkorang while running a commentary on a local football match. The fans attacked the journalists after Pageh described a penalty awarded to the home team as “dubious.” Table 2 below details the perpetrators who carried out the FoE violations cited in each of the 10 countries where violations were reported.

Table 2: Country and Perpetrators of FoE Violations

Country	Type of Perpetrator				
	Security Agents	State Officials	Organised Group	Court	Total
Ghana	6	0	1	0	7
Guinea	3	0	0	0	3
Mali	2	1	0	0	3
Nigeria	3	0	0	0	3
Liberia	2	0	0	0	2
Mauritania	0	1	0	1	2
Sierra Leone	2	0	0	0	2
Benin	1	0	0	0	1
The Gambia	0	0	0	1	1
Togo	1	0	0	0	1
Total	20	2	1	2	25

Targets /Victims of Violations

This section presents findings on the direct victims of the 25 violations reported in the monitoring period and not the total number of persons affected in general (directly and indirectly) by the violations. The violations recorded were mainly targeted at individuals (male and female) who were

journalists, civil society activists, and political party affiliates. Others were targeted at specific media organisations, and in some instances, the entire media landscape and the general public. Twenty of the 25 reported incidents were targeted at individuals who are journalists, civil society activists and political party affiliates. Two of the incidents affected media organisations in Liberia and Benin, while two others affected the general media landscape in Mauritania and Guinea. One incident of partial internet shutdown occurred in Mali and this affected all internet users in the country.

It is worth noting that even though each incident of FoE violation was reported and counted as one, the direct victims of the violations were not always single individuals. That is to say, whereas some violations affected just an individual, others affected groups of people. For example, in the two separate incidents of murder reported in the monitoring period, one person was killed in each incident. However, in the two separate incidents of sentencing in Mauritania and The Gambia, a total of 32 persons were affected. In Mauritania 13 anti-slavery activists were jailed and in The Gambia, 19 opposition figures were jailed. Thus, even though the incidents in Mauritania and The Gambia were recorded as two separate incidents, the victims were more than two. So in all, 52 individuals were directly affected by 20 of the 25 violations. On the other hand, for some of the violations, it was difficult to tell the actual number of persons affected. For instance, the reported partial internet shutdown in Mali affected all persons who use internet in the country, an estimated 2.2 million people.

Redress of FoE Violations

Since 2014 when The Monitor was introduced, findings about the FoE situation in the various countries in the region have consistently showed weak political will among authorities to redress most of the violations reported. Unfortunately, the lack of redress and reparation is a major challenge to fighting FoE violations since it emboldens, particularly security agents who are the major perpetrators, to continue such abuses with impunity. Even in instances where the findings of The Monitor have led the MFWA to petition authorities to punish perpetrators and where possible, get reparation for victims of FoE violations, but no action has been taken so far – e.g. [the case of Ghanaian Presidential staffer Stan Dogbe](#).

The issue of impunity was no different in the period under review. Nearly all the violations reported over the three months remain unpunished. Only one incident of redress was recorded in Ghana. In the said incident, national intelligence agents arrested an author and subsequently raided his home and seized copies of his books. The books that were seized were returned two days after. Even though the author was released without any charge, there was neither official explanation for why he was arrested nor did the author receive any reparation. This is sadly the common occurrence in West Africa where journalists, activists and citizens who exercise their constitutionally guaranteed right to free expression are arbitrarily arrested/detained and later released without any charge(s) or compensation.

Comparative Analysis of Findings from the Third Quarter of 2015 and Third Quarter of 2016

Generally, the findings recorded during the July-September 2016 monitoring and the findings of the same period the previous year (July-September 2015) vary greatly in terms of frequencies. For the

other variables such as the types of violations, perpetrators and even the countries in which FoE violations occurred, the findings show no significant variations.

Findings from the two periods under consideration (July-September 2016) and (July-September 2015) show that there has been a notable reduction in the incidents of FoE violations in the third quarter of 2016. Whereas a total of 45 FoE violations were recorded in the third quarter of 2015, 25 incidents were recorded in the same quarter in 2016. Thus, within the one-year period, incidents of FoE violations have reduced by 44 percent.

The types of FoE violations reported during the two periods were quite similar. Both periods recorded incidents such as arbitrary arrests/detentions, physical attacks, sentencing, and censorship. However, whereas the third quarter of 2015 did not record any case of murder, there were two reported incidents of murder in the July-September 2016 period.

The dominant perpetrators under both periods remained same. Under both periods, security agents led as the main perpetrators of the reported FoE incidents. State officials followed the security agents in the perpetration of the reported violations.

With regard to countries, the number of countries in which FoE violations occurred did not vary much – 11 countries in the third quarter of 2015, and 10 countries in the third quarter of 2016. However, in terms of the specific countries in which FoE violations occurred, there were some differences. Six countries recorded violations in both periods: Ghana, Guinea, Mali, Nigeria, The Gambia and Togo. Whereas Nigeria recorded the highest incidents of violations (12) during the July-September 2015 monitoring, Ghana recorded the highest incidents (7) during the same period in 2016. While the frequency of incidents in Nigeria reduced from 12 in 2015 to three in 2016, the incidents in Ghana increased from four in 2015 to seven in 2016. With the exception of Togo, the other three countries also reported increases and decreases in both periods. Table 3 below provides more details on the statistics in terms of the increases and reductions in the six countries that recorded FoE violations in both periods. The other countries that recorded incidents in either of the two periods are also shown in the Table.

Table 3: Countries and Frequency of FoE Violations Recorded in the Third Quarters of 2015 and 2016

July - September 2015		July - September 2016	
Country	Frequency of FoE Violations	Country	Frequency of FoE Violations
Ghana	4	Ghana	7
Guinea	5	Guinea	3
Mali	1	Mali	3
Nigeria	12	Nigeria	3
The Gambia	4	The Gambia	1
Togo	1	Togo	1
Burkina Faso	10	Benin	1

Cote d'Ivoire	3	Liberia	2
Guinea Bissau	1	Mauritania	2
Niger	2	Sierra Leone	2
Senegal	2		
Total	45		25

Conclusion

Findings from the monitoring of FoE violations over the period, July to September 2016, across the West Africa region have shown that 25 incidents of violations occurred in 10 countries. Analysis of these findings against findings of the same period in 2015 has shown that there has been a 44 percent reduction in the incidents of FoE violations in the region. This is a positive development that suggests that the FoE situation in the region is improving. However, the two incidents where two demonstrators lost their lives in Sierra Leone and Mali are very unfortunate and reprehensible and we call on the authorities in the two countries to investigate the cases and bring the perpetrators to book.

Another worrying finding despite the reduction in incidence of violation is the fact that almost all the violations recorded over the July-September 2016 period remain unpunished. The lack of punitive and reparative measures for FoE violations nurtures a culture of impunity in the perpetration of violations. This is a drawback on our democratisation processes across the region and therefore, needs urgent attention.

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 national Constitutions of the various countries in West Africa have provisions that recognise the right to free of expression as a condition for building a progressive and cohesive society. These provisions also demonstrate that there are adequate legal guarantees for the unhindered enjoyment of this right by citizens without threat or interference by any actors.

The 25 violations of freedom of expression rights captured in this report and the fact that almost all remain unpunished, therefore, underscore the wide gap between the ideals espoused in these charters, treaties, covenants and constitutional provisions and their effective implementation on the ground. These violations underline the need for stakeholders, especially governments, to give practical meaning to the afore-mentioned legal safeguards by upholding the law and ensuring justice whenever there are breaches.

The violations contained in this report are detrimental to critical journalism, democracy and accountability. They also promote a culture of self-censorship and impunity in which corruption and abuse of power thrive. This threat to freedom of speech, association and assembly, undermine social peace and, must, therefore, be tackled within the broader context of national, regional and

international peace building efforts. To this end, we make the following recommendations towards improving the freedom of expression environment in the region.

Recommendations

To 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.

To the ECOWAS

- Hold accountable culprits (both state and non-state actors) of freedom of expression violations through criminal, civil, administrative, or other sanctions to combat impunity.
- 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.

To the 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 Lohé Issah 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 and Expression

- 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.

To 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.