



# West African Free Expression Monitor

October-December 2016



By

**Media Foundation for West Africa**

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## Executive Summary

Over the past two decades, the Media Foundation for West Africa (MFWA) has been monitoring the freedom of expression situation in West Africa, the results of which have, since 2014, been published quarterly as the West African Free Expression Monitor.

In its last quarter reports spanning October-December this year, the MFWA recorded a total of 14 violations of freedom of expression rights. Compared to the 25 recorded in the previous quarter (July-September) the violations figure recorded during this quarter represents a significant 56% reduction in incidents of violation in the sub-region.

The Gambia recorded the highest number of violations with seven incidents, distantly ahead of Nigeria which recorded three incidents and Guinea which came third with two violations.

The report also captured incidents of violations in Benin and Mauritania. Eleven countries recorded no incidents during the quarter, the highest since the introduction of the Monitor.

Arrests and detentions were the dominant type of violation having occurred six times during the quarter under review. There were two incidents each of physical attacks and the denial of the right to assemble.

With seven incidents recorded against them, security agents accounted for 50% of the total violations recorded. State officials and individuals were each responsible for three violations.

All the five countries cited in this report for violating the right to free expression have obligations under their respective national constitutions as well as international law to respect, protect and fulfill the right to freedom of expression.

The 14 violations documented in this report therefore constitute a dereliction of legal obligation on the part of the states involved, particularly in view of the leading role played by state actors in the violations and the lack of reaction from government. The MFWA therefore calls on states to fully assume their responsibility not only to protect journalists and respect citizens' right to freely express themselves, but also to ensure that those who violate these rights are sanctioned appropriately.

## Introduction

A number of African countries attained independence in the 1960s. About a decade after the independence era, many of the countries descended into military dictatorship following a series of military coups. The West Africa region was no exception; majority of the countries went under military dictatorships. These regimes were largely characterised by human rights abuses, including a crackdown on the media and freedom of expression (FOE).

From the early 1990s to date, all countries in West Africa that were under military regimes have transitioned to democratic dispensations. As a result, most of the countries have adopted constitutions that guarantee basic rights and freedoms. The practice of democracy has brought about significant shifts in attitudes towards the work of the media and free expression (including the right to peaceful assembly and association).

However, there persists some degree of hostility towards the media and FOE in general. The hostility is expressed in varied forms – from overt physical attacks which sometimes result in the death of victims, to subtle exploitation of national security and other repressive laws to curtail FOE and media rights. Arbitrary arrests/detentions, sentencing and the imposition of excessive fines even in civil defamation suits are also employed to silence critics.

Some governments have refused to repeal Criminal Libel laws. Others have held back on passing Access to Information Laws to deny citizens the legal basis to demand transparency and accountability from public officers.

For close to two decades now, the Media Foundation for West Africa (MFWA) has been monitoring and reporting on the FOE situation in the region and advocating for redress. The monitoring reports are often published in the form of *Alerts*. In 2014, the organisation began collating and analysing data from the daily *Alerts* into a quarterly publication called, *West Africa Free Expression Monitor (The Monitor)*.

The Monitor has since been serving as a reference material for the promotion, defense and protection of media and FOE rights in the sub-region. This edition of The Monitor covers the period, October to December 2016.

## Methodology

This report is the product of three months (October-December 2016) of monitoring and reporting media and FOE rights violations and other developments in West Africa. It is based on reports from MFWA's seasoned correspondents in the 16 countries in the region. To complement their reports, other violations reported on the website of the International Freedom of Expression Exchange (IFEX) by other member organisations in the region, were featured. The MFWA is a member of the IFEX.

Findings from the three-month monitoring are presented below in five sections covering: incidents of FOE violations, types of violation recorded in the respective countries, perpetrators, targets/victims of violations and a comparative analysis of findings from the quarter under review (October-December 2016) with those of the preceding quarter (July-September 2016). The report ends with a set of recommendations to key stakeholders for improving the media and freedom of expression landscape in the region.

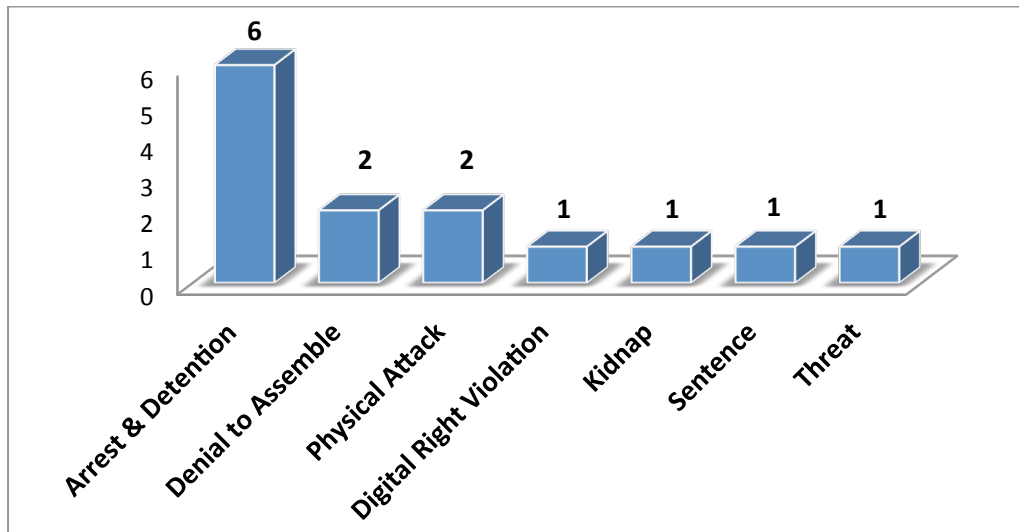
# Findings

## Incidents of Freedom of Expression Violations

The monitoring of media and FOE (including freedom of association and assembly) rights from October to December 2016 recorded a total of 14 violations. This is a significant drop from the 25 violations recorded in the preceding quarter (July-September 2016). It is also the lowest record of violations reported since The Monitor was introduced in 2014.

Seven categories of violations were reported during the period. Arrests and detentions were the most common type of violation perpetrated. The other types of violations cited, and the frequency of incidents of each are illustrated in **Figure 1** below:

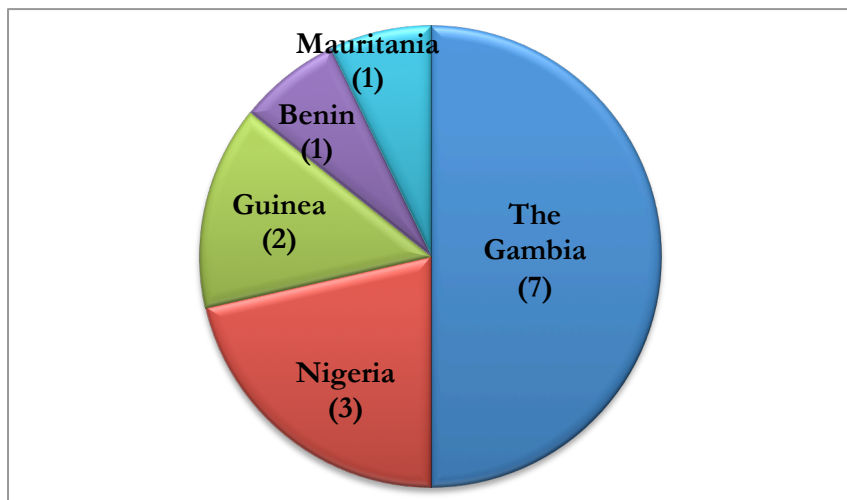
Figure 1: Types of Violations Recorded



## Countries and Incidents of Freedom of Expression Violations

Five out of the 16 countries in West Africa recorded media and FOE rights violations. These were Benin, The Gambia, Guinea, Mauritania and Nigeria. The Gambia topped the five countries by recording half (7) of the 14 violations cited over the three-month period. The frequency of violations recorded in the remaining four countries is depicted in **Figure 2** below.

Figure 2: Country and Frequency of Violations Reported



## Country and Type of FoE Violations Recorded

Generally, the seven types of violations registered in this report were sparsely distributed among the countries. No country recorded all the seven types of violations. The Gambia reported four different types of violations; Nigeria recorded two different types, just like Guinea. Benin and Mauritania each reported a single of type of violation.

As found in Figure 1 above, arrests and detentions were the dominant violations recorded. Six cases of arrests and detentions were reported, four of them in The Gambia. Nigeria accounted for the remaining two incidents of arrests and detentions. Nigeria also recorded the only case of kidnapping. The kidnapped journalist was, however, released unharmed after four days.

Guinea and Mauritania each recorded one incident of physical attack. In the Guinea incident, members of two transport union factions fighting for control over a bus terminal beat up a group of journalists who were covering their scuffle. In the case of Mauritania, the office of a newspaper was broken into by unknown assailants who took away some computers.

There were two violations of the right to assemble – The Gambia banned all post-election processions while the authorities in Benin outlawed all student union protests and activities on the campuses of the country’s four public universities.

The other types of violations recorded in the above-mentioned countries and the others cited in this report are detailed in Table 1 below:

*Table 1: Country and type of violation recorded*

Country	Type of Violation							Total
	Arrest and Detention	Denial to Assemble	Physical Attack	Digital Right Violation	Kidnap	Sentence	Threat	
The Gambia	4	1	0	1	0	1	0	7
Nigeria	2	0	0	0	1	0	0	3
Guinea	0	0	1	0	0	0	1	2
Benin	0	1	0	0	0	0	0	1
Mauritania	0	0	1	0	0	0	0	1
<b>Total</b>	<b>6</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>14</b>

## Perpetrators of Freedom of Expression Violations

The 14 violations recorded over the monitoring period were carried out by five different types of perpetrators – state security agents, state officials, individuals, organised groups and courts. State security agents were responsible for almost half (6) of the violations cited in the quarter. Security agents in The Gambia alone carried out four of the six violations while the remaining two were perpetrated by Nigerian police.

In the Gambian incidents, some soldiers arbitrarily arrested freelance photojournalist, Alhagie Manka, for taking ‘unauthorised’ pictures of supporters of the ruling Alliance for Patriotic Reorientation and Construction (APRC) party who were returning from the Electoral

Commission office after nominating ex-President Yahya Jammeh as the party’s candidate for the December 1, 2016 elections. Also, the National Intelligence Agency (NIA), one of Gambia’s security agencies, arrested media professionals, Momodou Sabally and Bakary Fathy without assigning any official reasons. The NIA officials again arrested and detained overnight two journalists working for the Arabic-language service of Al-Jazeera and deported them the following day.

In the Nigerian case, the Nigerian national intelligence agency, the Department of State Security (DSS), arrested and detained journalist Friday Ogungbemi for allegedly describing the Chief of Staff to the Governor of Kogi State, Edward David Onoja, as the “defacto Governor” in an article he wrote in the *Policy and Law Maker* community magazine. The DSS again arrested and detained Daniel Ekiugbo, publisher of *Ugheli Times Magazine* over an article he published on the Minister of State for petroleum, Ibe Kachikwu. Ekiugbo.

State officials and individuals followed state security in the number of violations perpetrated. State officials carried out three violations and so did individuals. Gambian state officials perpetrated two of the violations while Benin’s state officials perpetrated the other.

An organised group in Guinea and a court in The Gambia perpetrated the remaining two of the 14 violations. In Guinea a group of transport unionists assaulted four journalists from Espace FM who were covering the unionists’ scuffle over the control of a bus terminal. A court in The Gambia sentenced the exiled Gambian journalist, Alhagie Abdoulie Ceesay, to a total of four years imprisonment in absentia in addition to a fine of \$4580 on seven counts including sedition and publication of false news. Alhagie Ceesay was accused of distributing a picture of President Jammeh with a gun pointed at his head.

**Table 2** below provides additional information on the Perpetrators of all the 14 violations in each of the five countries.

*Table 2: Country and Type of Perpetrators of Violations*

Country	Type of Perpetrator					
	Security Agents	State Officials	Individuals	Organised Group	Court	Total
The Gambia	4	2	0	0	1	7
Nigeria	2	0	1	0	0	3
Guinea	0	0	1	1	0	2
Benin	0	1	0	0	0	1
Mauritania	0	0	1	0	0	1
<b>Total</b>	<b>6</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>14</b>

### Targets /Victims of Violations

The 14 violations recorded were targeted at journalists, a media organisation and internet users and patrons of international telephony services in The Gambia, although some of the violations ended up affecting other unintended targets. The findings in this section, however, focus on the direct victims of the violations as opposed to collateral victims.

Most of the violations were targeted at journalists – 10 males and one female. The 10 male journalists were victims of arbitrary arrests and detentions, physical attacks, threat, and sentence and fine. The only female journalist targeted was the victim of the kidnap case recorded in Nigeria. The *l'Eveil* newspaper organisation in Mauritania suffered a break-in attack by unidentified individuals during which some equipment of the organisation were stolen. In Benin, the ban on student union activities in public universities affected an unknown number of student activists. In the case of The Gambia, however, all internet users and patrons of international telephony services were the victims of the shutting down of the internet and blockage of international telephony services on the eve of the December 1 2016 elections.

## **Redress of FOE Violations**

One of the factors that embolden people to openly violate media and free expression rights is impunity. Many of the reported violations as highlighted in the daily *Alerts* and The Monitor go unresolved, unpunished and with no reparation. This absence of accountability seems to encourage perpetrators, especially state security agencies and state officials (who are often the main perpetrators) to openly disregard media and free expression rights. For instance, since 2014 when The Monitor was introduced, less than five percent of all the violations reported have seen some form of redress even in instances where special appeals were made. This seems to suggest that many governments in the region do not have the political will to protect journalists and fight impunity, a situation that seems to be encouraging violations against FOE (including the right to peaceful assembly and association) and media rights which is an affront to democracy.

In the period under review (October-December 2016) all the perpetrators acted in impunity as there was no case of sanction against anyone at the time of writing this report. Unfortunately, the issue of impunity does not only encourage perpetrators to continue violating rights; it also has economic and sustainability implications, first for the media, secondly, for corporations and the public at large. For example, even though the revenue losses suffered by corporate institutions, and news and information portals as a result of the internet shutdown and blockage of international telephony services in The Gambia has not as yet been estimated, learning from the cost implications of similar experiences in other countries in Africa, it must have been a huge loss, not to mention the social and political costs. There is, however, no indication as yet that there is going to be some form of reparation for the victims.

It is, however, worth mentioning that one of the violations cited in the July-September Monitor, about some 13 anti-slavery who had been sentenced to up to 15 years imprisonment received some measure of justice in the October-December monitoring period. Lawyers for the 13 activists succeeded in getting five of the convicts freed with the others having their jail terms reduced on appeal.

## **Comparative Analysis of Findings from the Third and Fourth Quarters of 2016**

The findings recorded during the third (July-September) and the fourth (October-December) quarters of 2016 show significant variations. In terms of incidents of violations, 25 incidents were recorded during the third quarter while 14 incidents were cited in the period under review. That is to say that the October-December monitoring period recorded a 56% decline in incidents of violations.

With regard to countries in which violations were cited, whereas the third quarter recorded violations in 10 countries, the fourth quarter recorded violations in five countries. All the five countries cited in the fourth quarter report – The Gambia, Nigeria, Guinea, Benin and Mauritania



also recorded incidents during the third quarter monitoring period. Ghana, which topped with seven violations during the third quarter, however, did not record any incident in the period under review. The Gambia, on the other hand, increased its record of violations from one in the July-September period to seven in the October-December period. Table 3 below provide additional information on the other countries.

*Table 3: Comparative Data on Findings for Third and Fourth Quarters 2016*

July –September 2016		October-December 2016	
Country	Frequency	Country	Frequency
Ghana	7	-	0
Guinea	3	Guinea	2
Mali	3	-	0
Nigeria	3	Nigeria	3
Benin	1	Benin	1
Mauritania	2	Mauritania	1
The Gambia	1	The Gambia	7
Togo	1	-	0
Liberia	2	-	0
Sierra Leone	2	-	0
<b>Total</b>	<b>25</b>		<b>14</b>

Even though both quarters recorded physical attacks, and arrests and detentions as the dominant categories of violations meted out to journalists and other victims by state security agencies and state officials, there is a notable variation in the types of violations cited in both periods. The July-September period reported two murder cases, but none was recorded in the period under review.

## Conclusion

Findings from the October-December 2016 monitoring show a 56% reduction in the incidents of violations across the West Africa region. This follows a declining trend in violations observed since the beginning of 2016 and therefore suggests that the freedom of expression environment in the region is steadily improving.

There were more incidents of arbitrary arrests and detentions of journalists than the other types of violations. Almost half (6) of the violations reported during the quarter under review were arrests and detentions. Public authorities, especially security agents and state officers are often, unfortunately, the main perpetrators of this category of violations. This situation has the potential to intimidate journalists and thus, foster self-censorship. With institutions that are supposed to help redress violations turning out to be the dominant perpetrators, it is not too surprising that none of the infractions in this report, as in almost all the previous ones, has been redressed. This state of impunity is proving to be the weak link in West Africa’s relatively impressive progress towards democratic consolidation and greater respect for human rights.

Paradoxically, all the five countries that were cited for violations have constitutions that guarantee freedom of expression and media rights, including the right to peaceful assembly and association. They have also committed themselves to regional and international human rights frameworks and

treaties/covenants such as the ECOWAS Protocol on Democracy and Good Governance, the African Charter on Human and Peoples' Rights, and the International Covenant on Civil and Political Rights (ICCPR). These legal frameworks guarantee press freedom and freedom of expression as a fundamental human rights. Unfortunately the violations contained in this report show that these provisions are not observed in practice in all the countries cited.

Meanwhile, a government's willingness to uphold press freedom and tolerate divergent views is a mark of commitment to open, transparent and accountable governance, which are critical factors for building and nurturing public trust, which in turn creates social peace and cohesion. These ideals must, therefore, be pursued as part of stability and regional integration efforts. To this end, the MFWA makes 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 other 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.
- Impose and enforce sanctions on Member States that defiantly flout statutory obligations.
- Independently investigate freedom of expression violations in the various countries.
- Engage the new government in The Gambia on the many outstanding human rights issues and get the authorities to comply with outstanding court judgements as well as comply with its statutory obligations in respect of human rights.
- Prevail on the new government in The Gambia to ensure that the sentencing of exiled journalist Abdoulie Cessay is quashed.

### **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 contact with the new authorities in The Gambia and discuss a roadmap towards redressing the gross and systematic human rights violations and culture of impunity under ex-President Yahya Jammeh.
- Make a thorough assessment of the regulatory, technical, logistical and human resource challenges of the media in The Gambia with a view to ensuring the urgent reforms that the post-Jammeh media requires to play its important role in democratic consolidation.

### **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.