

Press Statement read by GJA President Albert Kwabena Dwumfour on behalf of four media stakeholders at the Press Conference addressing the criminalisation of free speech against journalists at the International Press Centre, Accra – April 20, 2022

Good afternoon, members of the Press, Invited Guests, Ladies and Gentlemen. It is my honour to welcome you to this press conference which is a joint initiative by the Ghana Journalists Association (GJA), Media Foundation for West Africa (MFWA), Ghana Independent Broadcasters Association (GIBA), and the Private Newspaper Publishers Association (PRINPAG).

The immediate trigger of this press conference is the recent detention for seven days of our colleague, Noah Nartey Dameh of Radio Ada on false publication charges in connection with a critical Facebook post. As you must all have read or heard in the news, Dameh posted on his Facebook wall that the police had abused one Benjamin Anim, a citizen of Ada and a patient at a hospital, by chaining him to his hospital bed. The post was accompanied by a picture of the chained Anim alongside a picture of businessman Daniel McCorley (McDan) whom the journalist accused of instigating the police action.

Following this post, which was made in May 2022, the police summoned Dameh, claiming that one Bernard Korley, a cousin of McDan, had filed a defamation complaint against him (Dameh). The journalist was briefly detained and granted bail. After reporting to the police several times and a couple of court appearances, Dameh was in December 2022, freed by the Tema Magistrate Court which dismissed the case for lack of jurisdiction. However, the police re-arrested the journalist immediately after he stepped out of the courtroom. They charged him with publishing false news under section 208 of the Criminal Offences Act, 1960 (Act 29), before granting him bail.

On March 30, 2023, the court remanded Dameh for two weeks at the request of the prosecutor who said his surety had failed to produce him in court on three previous occasions. Meanwhile, the journalist had received no notification regarding the said previous sittings. He was released on bail on April 7, 2023, after spending a week in detention

This obvious persecution of Noah Dameh is but one of many crucial and disturbing issues relating to press freedom and safety of journalists in Ghana which we wish to address.

Since the beginning of 2022, a number of journalists and one civil society activist have been prosecuted in Ghana using the Electronic Communications Act and the Criminal Code, specifically Section 208 of the Criminal and Other Offences Act, 1960 (Act 29).

In one incident, the police arrested Kwabena Bobie Ansah, a presenter with Accra FM, on February 10, 2022, and charged him with publishing "false news and offensive conduct." The police detained the journalist, who had alleged that First Lady Rebecca Akufo-Addo had illegally acquired state land for private use.

This and other similar incidents prompted a number of statesmen, academics and civil rights activists to raise concerns about the apparent introduction through the backdoor of criminal libel, which was repealed in 2001. Incidentally, the current president, Nana Addo-Dankwa Akufo-Addo, then Attorney General, played a crucial role in the process of repealing the obnoxious law.

For example, four leading civil society organisations (CSOs), namely Ghana Centre for Democratic Development (CDD-Ghana), IMANI Africa, STAR-Ghana and the Africa Center for International Law & Accountability (ACILA), jointly issued a statement urging the authorities to put an end to the criminal prosecution of citizens for alleged defamatory publications.

"The underlisted Civil Society Organisations (CSOs) note with deep concern the apparent resurrection of the discredited criminal libel regime through a series of recent arrests and prosecution of persons for statements made or published in the media," the organizations said.

"We are deeply troubled by the growing use of the prosecutorial and judicial power of the state to punish criminally speech that allegedly falsely injures or damages the reputation of other persons or of an institution of state," CSOs continued.

"Instructively, during the heyday of the criminal libel law in the 1990s, the criminal law was used in precisely the way it is now being used: to prosecute and punish

journalists and public speakers for allegedly false or defamatory statements against certain family members or associates of the President”, the CSOs added.

One of Ghana’s leading media luminaries, Professor Kwame Karikari, also expressed concern about the involvement of the police in controlling the exercise of press freedom by journalists. While admitting that there is a lot of recklessness in the media, the academic feared likely arbitrariness on the part of the police.

“When the Police is policing speeches, the tendency is for them to be arbitrary because in the cases we are talking about, you will notice that these expressions, based on which the people had been arrested, are all targeted at the Executive or government,” Professor Karikari told Citi FM on February 14, 2022.

Interestingly, the Deputy Minister for Information, Fatima Abubakar, shares concerns about the law on the publication of false news which she said “is not fit for use and should not be in our books.” She believes we cannot just wish away the application of the law, once it exists and the police have the discretion to help enforce it.

“You cannot stop people who have discretions to enforce the law, whether to use it or not to use it,” the Honourable Deputy Minister said during a discussion on the safety of investigative Journalists in Ghana organised by the DW Akademie and the German Embassy in Accra in October 2022.

As key stakeholders in the media sector, the GJA, MFWA, GIBA, PRINPAG and GCRN are equally concerned about the use of the Electronic Communications Act as well as the Criminal and Other Offences Act to arrest citizens and journalists and prefer criminal charges against them for press and speech offences which are merely defamatory and for which civil remedies are available.

Section 76 of the Electronic Communications Act, 2008 (Act 775) states: “A person who by means of electronic communications service, knowingly sends a communication which is false or misleading and likely to prejudice the efficiency of life-saving service or to endanger the safety of any person, ship, aircraft, vessel or vehicle commits an offence and is liable on summary conviction to a fine of not

more than three thousand penalty units or to a term of imprisonment of not more than five years or both.”

Similarly, section 208 of the Criminal and Other Offences Act, 1960 (Act 29) also provides: “A person who publishes or reproduces a statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace knowing or having reason to believe that the statement, rumour or report is false commits a misdemeanour.”

We find it ironic that a government presided by Nana Akufo-Addo, who is much vaunted as a human rights and press freedom champion, is supervising the surreptitious reintroduction of criminal libel through the use of the above-mentioned criminal laws.

Indeed, the repression of freedom of expression using the law on false publication likely to cause fear and panic undercuts the publicly expressed view of President Akufo-Addo. Speaking on the topic “Outlawing Criminal Libel Laws” during a conference at the University of Pretoria in August 2011, Nana Akufo-Addo lamented that such laws are susceptible to broad and abusive interpretation.

“...the problem with our current false news law is that it is more directed at mere expression and the state of mind, namely fear and alarm, which in the best of worlds is difficult to determine,” argued the then presidential candidate.

In the face of the increasing use of this law to target critical journalists under President Akufo-Addo’s regime, we may well ask the question “What has changed?”

We recognise that the media and journalists can sometimes be reckless and unprofessional to the extent of publishing false and defamatory stories. Fortunately, the laws of the country provide aggrieved entities with remedies for civil actions against citizens, journalists and media organisations. It is regrettable therefore, that repressive sections of the Electronic Communications Act and the Criminal and Other Offences Act, 1960 (Act 29) are being weaponised to muzzle free speech under the Akufo-Addo regime.

It may be argued that the arrests and persecutions have been in accordance with the law. It is equally true that the victims of the ex-while criminal libel law were also dealt with in line with the law. Indeed, many of the world's intolerant and autocratic governments typically deal with dissent and press offenses by exploiting the law, hence our call for a repeal of the two laws.

It is largely due to the wanton arrest and detention of journalists that Ghana plummeted from its lofty perch as the country with the freest media environment in Africa in 2018 to 13th in the 2022 global press freedom ranking by Reporters without Borders (RSF). On the global stage also, Ghana dropped from 30th position in 2021 to 60th in 2022, the worst ranking in 20 years.

The violations that have been recorded in Ghana over the past year give course for pessimism regarding the country's performance in the next ranking.

It is obvious that our press freedom environment is deteriorating and that the abuse of the two controversial laws has contributed massively to the deterioration. It is our view therefore that efforts to bring a positive change should begin with a reconsideration of those laws. We also call on the government to adequately resource the National Media Commission to effectively carry out its mandate of monitoring and regulating media content in a proactive manner. This, we believe, will discourage police involvement in the media regulatory space.

Finally, we commit ourselves to promoting professional standards in the media and urge all journalists and media houses to uphold the highest level of integrity and professionalism. We will not hesitate to call out any journalist or media organization that indulges in flagrant violation of the professional ethics and standards. This is in view of the recognition that press freedom and indeed all other forms of freedoms go with responsibility and the duty to respect public sensibilities, human dignity and public interest.