

**STATE OF AFRICAN  
HUMAN RIGHTS  
DEFENDERS 2016**



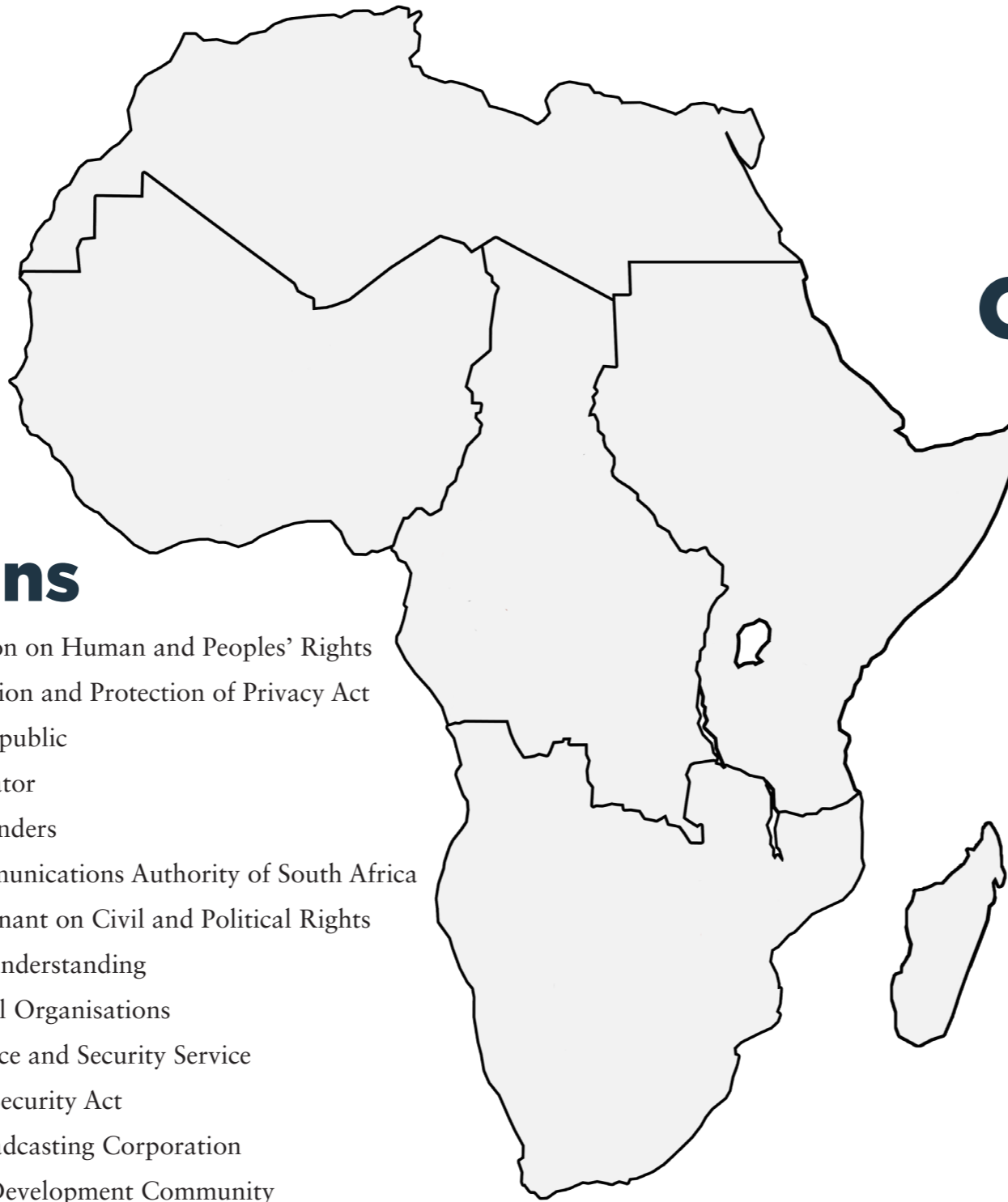
**PAN-AFRICAN**  
**Human Rights Defenders Network**

# STATE OF AFRICAN HUMAN RIGHTS DEFENDERS 2016



# Abbreviations

ACHPR	African Commission on Human and Peoples' Rights
AIPPA	Access to Information and Protection of Privacy Act
CAR	Central African Republic
DA	District Administrator
HRDs	Human rights defenders
ICASA	Independent Communications Authority of South Africa
ICCPR	International Covenant on Civil and Political Rights
MOU	Memorandum of understanding
NGOs	Non-Governmental Organisations
NISS	National Intelligence and Security Service
POSA	Public Order and Security Act
SABC	South African Broadcasting Corporation
SADC	Southern African Development Community
SOGI	Sexual Orientation and Gender Identity
UNHRC	United Nations Human Rights Council



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# Foreword

Dear Friends,

In 2009, the Pan-African Human Rights Defenders Network (PAHRDN) was founded on a clear principle: as African human rights defenders (HRDs) we are stronger together. All over the continent, those of us that stand up for human rights have faced similar challenges, and it is essential that we continue in solidarity to support, learn from, and protect each other – now more than ever.

The report before you is the result of the continued strong collaboration between the five sub-regional human rights networks that make up PAHRDN. It provides an overview of issues affecting the fundamental freedoms and rights key to our work as HRDs. Despite progress made in setting up robust mechanisms and human rights systems on the African continent to protect the work of HRDs, seek better accountability, end impunity, and encourage participation and transparency in our different countries, it is unfortunate to note that according to our findings, challenges still remain for States actors to comply with their

commitments, and fully enforce the rights guaranteed by the different national constitutions.

As they hold the powerful accountable, stand up for marginalized groups, or speak out on controversial issues, HRDs have always faced risks. However, between 2015 and 2016 we have witnessed a consolidated attack on civic space by our governments through restrictive legislation and practices that delegitimize the valuable work of civil society. The dilemma faced by many HRDs is that those who are supposed to protect them are committing the violations.

PAHRDN has not been unaffected by these trends: in 2014 the Cairo Institute for Human Rights Studies was forced to relocate to Tunis, being unable to continue its work in the increasingly restrictive environment in Egypt. This year, the list of African countries where independent human rights work has been made all but impossible has only grown longer, with States inadequately considering the African Commission's Study Group on Freedom of Association and Assembly in

Africa report on “Freedom of Association, as Pertaining to Civil Society, and Freedom of Assembly in Africa: A Consideration of Selected Cases and Recommendations.”<sup>1</sup>

Meanwhile, we have also seen new trends emerging. The explosive growth of Internet connectivity has empowered both African citizens and civil society. However, despite a 2016 resolution by the UN Human Rights Council reaffirming the same rights that people have offline must also be protected online, Internet black-outs, especially during electoral periods, are becoming increasingly common in Africa.

Nevertheless, there have also been welcome signs of positive motion. Following Cote d'Ivoire's groundbreaking decision to adopt legislation protecting HRDs, several other African states are considering similar legislation. In January 2017, ECOWAS facilitated a peaceful transition of power in the Gambia after its people had spoken out, proving that African states can indeed provide African solutions and uphold democratic values.

In 2017, PAHRDN will continue to bring together HRDs and all those that support their goal of realizing the promises enshrined in the Universal Declaration of

<sup>1</sup> [http://www.achpr.org/files/special-mechanisms/human-rights-defenders/report\\_of\\_the\\_study\\_group\\_on\\_freedom\\_of\\_association\\_\\_assembly\\_in\\_africa.pdf](http://www.achpr.org/files/special-mechanisms/human-rights-defenders/report_of_the_study_group_on_freedom_of_association__assembly_in_africa.pdf)

Human Rights and the African Charter on Human and Peoples' Rights. It is our hope that this publication will serve as a tool to raise awareness and bring us one step closer to this goal.

Yours in solidarity,



Hassan Shire

Chairperson  
*Pan-African Human Rights Defenders Network*

Executive Director  
*DefendDefenders (East and Horn of Africa Human Rights Defenders Project)*

# Introduction

Human rights defenders play a critical role in the promotion and protection of human rights in Africa. However, they often operate in circumstances that do not respect fundamental human rights as enshrined in national constitutions and international treaties that promote and protect key rights to freedom of assembly, association, and expression. Instead of creating enabling environments for human rights activities, many countries perceive HRDs as agents of the West or of political opposition because of the critical issues they highlight and the foreign funding they receive for their activities.

Considering the risky environment within which HRDs operate, the need for legislative and other such protection mechanisms cannot be overstated. The United Nations Declaration on Human Rights Defenders; the first African Union (AU) Ministerial Conference on Human Rights in Africa meeting on 8 May 2003 in Kigali, Rwanda; and the Grand Bay Declaration and Plan of Action adopted by the OAU Ministerial Conference on Human Rights in Africa held in Grand Bay, Mauritius, have set out some of the

core principles contextualizing the work of HRDs and the functions they fulfil in the promotion and protection of human rights. The ACHPR has also adopted several resolutions as part of efforts to curb reprisals and safeguard those working to promote human rights.<sup>2</sup>

In June 2014, Cote d'Ivoire became the first African state to pass progressive legislation to protect HRDs and while other countries have drafted similar legislation, none have passed. Most African countries are still reluctant to enact laws which would extend legal protection to HRDs, despite many constitutions safeguarding basic fundamental rights. These constitutional obligations are often breached, with HRDs frequently facing harassment and intimidation as they carry out their work. HRDs continue to work under difficult conditions, attempting to remind countries to respect their commitment to the protection of human rights and individual freedoms.

<sup>2</sup> Some of the resolutions passed by the African Commission in relation to human rights defenders include: ACHPR/Res 69 (XXXV)04, ACHPR (XXXI)06 and ACHPR/Res.119 (XXXII) 07.

# About the network

From 20 to 23 April 2009 at the Johannesburg + 10: All Africa Human Rights Defenders Conference, 88 HRDs from across the African continent, 33 international and development partners, with the presence of the UN Special Rapporteur on the situation of human rights defenders and the African Commission Special Rapporteur on Human Rights Defenders, gathered in Kampala, Uganda with the objective to take stock of the achievements made in the protection of HRDs since the first 'All African Human Rights Defenders Conference' held in Johannesburg in 1998, and to jointly devise strategies to respond to new and persisting challenges in order to effectively improve HRDs' protection and capacity to work.

One of the main goals of the Jo'burg +10 Conference was to understand the challenges faced by HRDs at a regional and sub-regional level by engaging conference participants in significant discussions with an emphasis on exchanging information in order to identify best practices for the protection of HRDs and encourage replication of these practices across the

continent for increased impact.

HRD networks were time and again identified as a very powerful and positive tool for enhancing the rights of HRDs and creating a more enabling environment for them to pursue their legitimate work. The attendance of coordinators and members of existing sub-regional networks from West Africa, Central Africa and the East and Horn of Africa allowed for a first-hand sharing of lessons learnt, and provided further stimulus for ongoing initiatives in Northern and Southern Africa to create similar networks in these regions.

The establishment of coordinating organisations that could help to reinforce and build on sub-regional efforts was seen as one of the key means through which to overcome many of the challenges and gaps in the protection mechanisms in place at the time. Based on these experiences, PAHRDN was founded to strengthen HRDs throughout Africa.



## The East and Horn of Africa Human Rights Defenders Project

The DefendDefenders (the East and Horn of Africa Human Rights Defenders Project) seeks to strengthen the work of HRDs throughout the region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights. DefendDefenders focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania, and Uganda.

Many countries in this sub-region have experienced massive human rights abuses, long-term and large-scale impunity, single-party and military dictatorships, civil wars, and in the case of Somalia, a collapsed state. These situations and contexts render both the work and lives of human rights defenders particularly challenging. This project was established in 2005 following extensive field research in the region, which identified the most pressing and unmet needs of HRDs in order to overcome some of the resulting challenges.

DefendDefenders serves as the secretariat of the East and Horn of Africa Human Rights Defenders Network (EHAHRD-Net) representing 78 organisational and individual members. EHAHRD-Net envisions a region in which the human rights of every citizen, as stipulated in the Universal Declaration of Human Rights, are respected and upheld. Its mission is to maximize the protection of HRDs working in the East and Horn of Africa sub-region and to enhance the awareness of human rights work through linkages with national, regional and international like-minded entities.

In addition, DefendDefenders also serves as the Secretariat of the Pan-African Human Rights Defenders Network.

## The Cairo Institute for Human Rights Studies

The North African Human Rights Defenders Network is an informal network of human rights organisations coordinated by the Cairo Institute of Human Rights Studies (CIHRS) based in Tunis, Tunisia. It focuses on the protection of HRDs most at risk in Morocco, Algeria, Tunisia, Libya, Egypt and Sudan.

CIHRS is an independent regional non-governmental organisation, which aims to promote respect for the principles of human rights and democracy in the Middle East and North Africa. It seeks to attain this objective by developing, proposing, and promoting changes to policy and practice in the Arab region in order to bring them in line with international human rights standards. In addition, CIHRS conducts human rights advocacy at national, regional, and international human rights mechanisms, carries out research, and provides human rights education, both for youth and for established HRDs seeking ongoing professional development. It is also a major publisher of information related to human rights in the Arab region through various publications.

CIHRS has two offices located in North Africa, its main office in Tunis, Tunisia, that is handling the regional coordination activities, and an office in Cairo, Egypt which handles Egypt-related activities and interactions with the League of Arab States.

CIHRS also operates an office in Geneva that provides for proximity and continued involvement in the process at the UN Human Rights Council, where the organisation holds observer status and currently has a permanent representative in Brussels that furthers CIHRS and its partner's goals and outreach within European Union institutions.





## The Southern African Human Rights Defenders Network

The Southern African Human Rights Defenders Network (SAHRDN) is a regional network comprising representatives of human rights organisations in ten countries in Southern Africa. It was established in February 2013. Its primary mandate is to coordinate, at a regional level, the protection and security of HRDs and enhance their ability - through litigation, capacitation and advocacy initiatives - to carry on with their work in their particular countries in the face of state-driven or supported repression. The secretariat of SAHRDN is hosted by the Zimbabwe Lawyers for Human Rights (ZLHR). ZLHR is a non-partisan, not for profit law-based human rights organisation whose core objective is to foster a culture of human rights in Zimbabwe and the region as well as encourage growth.



## Central Africa Human Rights Defenders Network / Réseau des Défenseurs des Droits Humains en Afrique Centrale

The Central Africa Human Rights Defenders Network (REDHAC) accompanies and reinforces the work HRDs with the aim to mitigate their vulnerabilities and risks. This multifaceted support reinforces their capacities and encourages them to carry out their work of promoting and defending human rights.

REDHAC covers eight countries, many of which have experienced massive violations of human rights with complete impunity and represents over 200 members, including HRDs, lawyers, and journalists. Its vision is to promote, train and support HRDs, preserve solidarity among them, and defend their rights whenever these are under pressure.

## West Africa Human Rights Defenders Network / Réseau Ouest Africain des Défenseurs des Droits Humains



Created in May 2005, the West African Human Rights Defenders Network (ROADDH / WAHRDN) is a non-governmental organisation that promotes the work of HRDs. It is composed of the National Coalitions for Human Rights and individual focal points in six countries. ROADDH has observer status to the ACHPR and is a member of the executive committee of the NGO Forum at the ACHPR. It's also a member of the Human Rights Council Network (HRC Net), which is composed of regional and international NGOs, in order to conduct advocacy and lobbying activities at the UN Human Rights Council.

Through its advocacy efforts, ROADDH aims to shape domestic and foreign policy of the West African countries and to contribute to establishing the rights of law. The network's strategy is based on close cooperation with the diplomatic representations, foreign ministries, National Commissions of Human Rights and regional and international human rights mechanisms to further the safe working environment of HRDs.

ROADDH covers Cameroon, the Central African Republic, Chad, the Democratic Republic of the Congo, Congo Brazzaville, Gabon, Equatorial Guinea, and Soa Tome and Principe

# Freedom of Assembly



The right to freedom of assembly is essential for societies in general, as well as associations and HRDs, as it enables them to collectively organise on human rights issues through demonstrations, meetings and advocacy.<sup>3</sup> Freedom of assembly is protected under Article 21 of the International Covenant Civil Political Rights (ICCPR) and Article 11 of the African Charter on Human and Peoples' Rights, which states "people have the right to assemble freely together."

The ACHPR initiated a study<sup>4</sup> on freedom of association and assembly as a result of trends aimed at restricting the space of civil society organisations, and the constant targeting of HRDs in Africa.

The rights to freedom of association and assembly are universally recognised both by international and regional instruments. At regional level, the rights to freedom of association and assembly is guaranteed under the African Charter guarantees (article 10 and 11); the African Charter on the Rights and Welfare of Child (article 8); as well as the African Charter on Democracy, Elections and Governance ( article 12, 27 and 28).

Despite the fact that these treaties have been signed and ratified by nearly all African countries, governments throughout the continent continue to stifle the exercise of the right to assembly.

<sup>3</sup> Human Rights Institute of South Africa, "Report Enabling Environment National Assessment", (EENA, 2015).

<sup>4</sup> [http://www.achpr.org/files/special-mechanisms/human-rights-defenders/report\\_of\\_the\\_study\\_group\\_on\\_freedom\\_of\\_association\\_\\_assembly\\_in\\_africa.pdf](http://www.achpr.org/files/special-mechanisms/human-rights-defenders/report_of_the_study_group_on_freedom_of_association__assembly_in_africa.pdf)

## ● North Africa

In 2013, **Egypt** passed Law No. 107 on the right to public meetings, processions and peaceful demonstrations, which imposed restrictions upon demonstrators and organisers of peaceful assemblies. Article 10 of the new law permits the Interior Ministry to object to the organisation of demonstrations based on vague grounds, such as information of threats to security or peace. Consequently, individuals' right to peaceful assembly is contingent on obtaining prior authorisation from law enforcement officers.

**Libya** also restricts the freedom to protest through the use of bylaws. Articles 2 and 3 of law No. 65 regulating public demonstrations which was passed in 2012 ban gatherings that could lead to the obstruction of public utilities, without requiring the government to provide alternative locations. Authorities use the excuse of obstruction to restrict the legitimate practice of this right. Article 5 of the same law requires that organisers of meetings and demonstrations notify concerned authorities 48 hours prior to the event, and gives authorities the power to change the time and place of the demonstration under Article 6.

In **Algeria**, the Public Meetings and Gatherings Law (1990) requires that demonstrators inform the Governor eight days ahead of the scheduled event. The Governor has the right to reject the request in writing five days before the scheduled date without specifying the grounds on



which it is refused. Furthermore, like similar Libyan legislation, the Public Meetings and Demonstration Gathering Law does not recognise spontaneous demonstrations and considers them a punishable offence. It also prohibits any meeting or a demonstration perceived to oppose national symbols, public order, public morals, or the November Revolution. However, unlike the Libyan law, Algeria allows organisers the right to appeal before the administrative court to contest the banning decision.

The **Moroccan** Act on Public Assembly (1958) requires organisers to gain prior authorisation at least three working days before the proposed demonstration date. Administrative authorities have the authority to ban the demonstration if they believe it will disturb public security, and any unauthorised demonstration attracts a punishment of imprisonment from one to six months and a fine ranging from 12,000 to 100,000 Moroccan Dirham which is approximately (5,200 to 10,400 USD). The same penalties are applicable to anyone who participates in an unauthorised demonstration, provides false information about the demonstration, or who organises a demonstration either before filing the request or after the event has been banned.

## ● East and Horn of Africa

Throughout the East and Horn of Africa, the right to protest has become increasingly restricted, and protestors are often exposed to a high level of

risk. Gatherings and protests have been interrupted by the security forces if they fail to get authorisation, or are perceived to be events supporting opposition parties.

In December 2013, the **Burundian** parliament passed a law on Public Gatherings, which stipulated that the organisers of public demonstrations or assemblies are required to declare in advance their intention to hold an event and give information about the assembly. Since the adoption of the law, it has been used to restrict civil society from meeting. When civil society groups organised a campaign against President Pierre Nkurunziza's third term, they were severely repressed.<sup>5</sup> The coordinators of these campaigns continue to experience a variety of threats such as physical attacks, death threats, and intimidation; many have since fled the country.

In **Djibouti**, HRDs have faced severe restrictions on the right to peaceful assembly. A group of activists were captured in Dikhil during a peaceful walk on 18 September 2015, and held until 11 October 2015. They were reportedly detained for three weeks in terrible conditions. On 24 November 2015, the Government of Djibouti adopted restrictive measures to limit the right to peaceful assembly after the Paris and Bamako terrorist attacks. A state of emergency was established a few months prior to the country's presidential elections, effectively giving

<sup>5</sup> Human Rights Watch, "Burundi: Deadly Police Response to Protests", 29 May 2015, <https://www.hrw.org/news/2015/05/29/burundi-deadly-police-response-protests>

the authorities the power to dissolve peaceful assemblies without due process. Since its establishment, violence against opposition groups and critics of the government has intensified.

In **Ethiopia**, security forces have used excessive force to disperse protests in the Oromia and Amhara regions. Demonstrations in the Oromia region first began in response to the expansion of the capital Addis Ababa under the government's Integrated Development Master Plan. Reports suggest that protests have been violently dispersed and have resulted in at least 500 deaths, according to Human Rights Watch. Protests continued throughout 2016 and on 9 October the Ethiopian Government declared a State of Emergency, imposing further restrictions on peaceful protests.<sup>6</sup>

Freedom of assembly is frequently violated by **Sudanese** security services with extreme use of force during protests. On 10 January 2016 in West Darfur, security forces opened fire on protesters that had gathered outside the State Governor's office to demand protection after their village was looted and burned to the ground by suspected members of Sudan's Rapid Support Forces earlier the same day.<sup>7</sup> A similar incident occurred on 31 January 2016, when a peaceful student

<sup>6</sup> <https://www.frontlinedefenders.org/en/statement-report/ethiopia-civil-society-calls-upon-human-rights-council-investigate-government>

<sup>7</sup> Sudan must protect civilians in West Darfur and reign in security forces after village burned and protestors lethally shot", African Centre for Justice and Peace Studies, 14 January 2016, <http://www.acjps.org/sudan-must-protect-civilians-in-west-darfur-and-reign-in-security-forces-after-village-burned-and-protestors-lethally-shot/>

gathering at El-Geneina University in West Darfur was violently dispersed by the National Intelligence and Security Services (NISS). Over 24 students were arrested and reported that NISS beat them while in custody. One of the students arrested, Salah Gamar-Eldin, was found unconscious the following day in front of his family home with signs of torture on his body. He later died as a result of his injuries in a nearby hospital.<sup>8</sup> The following month, on 3 February 2016, 15 female protesters were beaten by security forces and arrested after staging demonstrations calling for justice for victims killed during Sudan's September 2013 protests, which led to the deaths of another 185 people.<sup>9</sup>

In **Uganda**, the right to freedom of peaceful assembly is guaranteed under national, regional, and international treaties and is provided for in Article 29(1d) of Uganda's Constitution (1995). Despite these guarantees, freedom of peaceful assembly is regularly restricted and extreme force is used to disperse peaceful demonstrations. The Public Order Management Act (2013) (POMA) was signed into law on 2 October 2013 to regulate public gatherings. Article 5 of the Act stipulates that organisers of public

<sup>8</sup> "One Student Dead After Heavy Beatings and Serious Concern for Safety of Another Student Detained Incommunicado at Security Offices", African Centre for Justice and Peace Studies, 8 February 2016, <http://www.acjps.org/west-darfur-one-student-dead-after-heavy-beatings-and-serious-concern-for-safety-of-another-student-detained-incommunicado-at-security-offices/>

<sup>9</sup> "Protestors Calling for Justice for Victims of 2013 Protest Killings Beaten and Detained by Sudan's Security Agency in Khartoum", African Centre for Justice and Peace Studies, 10 February 2016, <http://www.acjps.org/protestors-calling-for-justice-for-victims-of-2013-protest-killings-beaten-and-detained-by-sudans-security-agency-in-khartoum/>

gatherings must give at least three days' notice, with onerous levels of detail, or they may be shut down and held liable if they fail to give sufficient notice or adhere to conditions of the Act. Additionally, the Act gives broad powers to Police to authorise or end public meetings. These provisions were used repeatedly in the run up to the 18 February 2016 presidential elections to prevent public gatherings from taking place and violently disperse those underway.

## ● Southern Africa

In many southern African countries such as Angola, Zimbabwe, Mozambique, Swaziland and Zambia, the right to peacefully assemble is under threat, and often infringed upon through restrictive legislation.

While Section 51 of the Constitution of Mozambique guarantees freedom of assembly, a prescriptive law that requires citizens to inform the City Council before holding a march or a public gathering frustrates the principle.

Similarly in Angola, the Constitution safeguards the right to assembly and yet a Presidential Decree passed under Article 26 in 2014 empowers state security to silence non-violent dissenting voices and HRDs from criticising the government. This has been implemented through arbitrary arrests and conviction of HRDs, including José Marcos Mavungo,<sup>10</sup> an

<sup>10</sup> Voice of America, José Marcos Mavungo condenado a 6 anos de prisão", 14 September 2015, <http://www.voaportugues.com/a/jose-marcos-mavungo-condenado-6->

HRD who was charged on 14 March 2015 for his involvement in organising a peaceful demonstration, and his alleged association with a group of unknown men reportedly found with explosives and flyers before the demonstration. No evidence of his association with these men or his involvement in the production of the flyers was provided during the trial, and he was convicted on charges of 'rebellion' and given a six-year sentence. Arão Bula Tempo, a human rights lawyer, was also arrested for having invited foreign journalists from the Republic of Congo to cover a peaceful protest planned by Mavungo against poor governance in Cabinda Province. He was formally charged with attempted "collaboration with foreigners to constrain the Angolan state." Charges against both HRDs were dropped in July 2016.<sup>11</sup>

In South Africa, the right to freedom of assembly is regulated by the Regulations of Gatherings Act (1993). The Constitution guarantees peaceful assembly in Section 17, which states that everyone has the right, peacefully and unarmed, to assemble, demonstrate, picket and present petitions without limitation based solely on their agenda or orientation. A person wishing to convene a gathering must give notice of his or her intention to do so to a responsible officer no later than seven days before the gathering is held. At times, local authorities use the Act to impede the right to collectively assemble. There

[anos-prisao/2962925.html](http://anos-prisao/2962925.html)

<sup>11</sup> Bloomberg, "Angola Drops All Charges Against Activist Arao Bula Tempo," 15 July 2016, <http://www.bloomberg.com/news/articles/2016-07-15/angola-drops-all-charges-against-activist-arao-bula-tempo>

is evidence of municipalities requesting additional documentation such as permits to use public roads, letters of permission from the local tribal council, and acknowledgement letters from the intended recipient of any memorandum of demands.<sup>12</sup> Concerns have also been raised about Section 11 of the Act, which deals with the liability for damage arising from gatherings and demonstrations. Under this provision, the organisers of the gathering could be held vicariously liable for the damage done by the marchers or demonstrators even if organisers took steps to prevent the destruction of property.

In Zambia, the Public Order Act (1955), a repressive ordinance dating from colonial era, has continued to be used to curtail public gatherings, as well as harass HRDs, dissenting voices, citizens, and opposition parties. The Act prohibits the wearing of opposition party regalia in a demonstration, protest, or picket.

Peaceful protests and gatherings have led to at least 683 people being arrested in Zimbabwe since end of May 2016. In most instances, the protestors had been agitating for sweeping governance, economic, and political reforms. While the 2013 Constitution provides a wide array of rights under the rubric of assembly, such as the rights to gather, peacefully protest, and picket in Section 58 and 59, there has not been much willingness by authorities to comply with

<sup>12</sup> Daily Maverick, "Inside Rustenburg's banned protests," 7 March 2013, <http://www.dailymaverick.co.za/article/2013-03-07-inside-rustenbergs-banned-protests/>

such provisions. The police have often responded in a heavy-handed manner, violently dispersing protesters, torturing, and or arresting (in some case arbitrarily even those that have not participated), detaining and prosecuting HRDs that have been at the forefront of leading such campaigns. In most cases, those arrested have been charged with vague offences such as criminal nuisance or disorderly conduct, with some being charged with violating the Public Order and Security Act (POSA), as well as some provisions of the Criminal Law Codification and Reform Act.

Of concern has been the high amount for bail that has been set by the lower courts, largely viewed as punitive by human rights lawyers. The protesters have in some instances been loosely organised in social movements, and heavily relied on social media platforms to mobilise. Zimbabwe is in the process of introducing a Cyber Crimes Bill, which seeks to severely curtail freedom of expression by regulating the use of social media platforms among other things.

From August 2016, the police force – also the regulating authority under POSA, has used its powers to ban protests in the Central Business District of Harare. Initially, legal challenges against the ban were granted by the High Court, but the responsible judge was subjected to media attacks in the form of hate speech – mainly through the state-controlled media. This had a negative impact not only on the independence of the concerned judge,

but opened up the judicial institution to attacks on its independence as a whole. Subsequent challenges to new bans have been dismissed by the High Court.

## ● West Africa

Article 17 of the **Liberian** Constitution states: “All persons at all times, in an orderly and peaceful manner shall have the right to assemble and consult upon the common good, to instruct their representatives, to petition the government or other functionaries for the redress of grievances and to associate fully with other or refuse to associate in political parties, trade unions and other organisations.” However, despite these guarantees, in December 2014 the government banned rallies and other public gatherings during the two weeks preceding the senatorial elections, and for 30 days thereafter.<sup>13</sup>

In countries such as **Nigeria**, the rights to freedom of peaceful assembly and association are being implemented through the federal government’s adoption of the Union Act 2004, Public Order Act, and Electoral Act. Therefore, although HRDs enjoy an enabling environment to operate without fear of discrimination or oppression, openly sharing location address without fear of clampdown or arrest, in some states the responsible governments have banned street protests and have hindered civil society from

carrying out peaceful protests.

In **Sierra Leone**, while freedoms of assembly and association are constitutionally guaranteed and generally observed in practice, protests frequently escalate into violence. In March 2016, students at the Njala University College campus rioted when those who had failed to register in advance were barred from taking first-year examinations. Rioters threw stones at university staff and set university property on fire. The police were accused of responding with live bullets.

## ● Central Africa

In October 2016, associations representing teachers, educators and lawyers in two of **Cameroon’s** Anglophone South West and North West Regions protested unfair treatment in the teaching and legal sectors, as well as across government and society in general.

The protest was peaceful and limited only to teachers and lawyers, was then followed a few weeks later by public protests in the two regions’ main cities, Bamenda and Buea. Organised in solidarity by leading civil society organisations in the regions, they led to major disruptions of schooling, judicial processes, private and public businesses as well as services.

The government responded to protests with a security crackdown that led to reported serious human rights violations by the security forces including killings,

arbitrary arrests, detentions, torture, harassment, and intimidation. An Internet blockade instituted in January 2017 that lasted for 94 days has denied millions of people in the Anglophone regions access to the Internet, and remains in effect. Together with militarized security operations, this has produced a pervasive climate of repression, fear, and intimidation across the country.

In Cameroon, Law No. 90-55 (1990) governs meetings and public events. The law does not require any notification of the authorities when an association holds a meeting in a private place but if the meeting is public the association is required to deliver a statement to the local authorities at the district level. Civil society is growing, but organisations can face stiff government opposition if they become too critical. Trade unions, strikes, and collective bargaining are permitted, but are subject to numerous restrictions. Between 2014 and 2015, many political parties and civil society organisations had meetings banned, including: Association for the rights of Sexual Minorities (SID’ADO); Central Union of Workers; Rights Association; Association of Journalists of Cameroon; Students Association of Cameroon (ADDEC); Association for the Defence of Homosexuals (ADEFHO); OS-Civil; Defence Association of Human rights; and Collective of Youth of Toubouro for Development.

In the **Democratic Republic of the Congo**, authorities continue to harass

and intimidate HRDs who participate in peaceful assemblies. On 15 March 2015, security forces stormed a press conference organised by young activists in the capital, Kinshasa, to launch a civic education platform, *Filimbi*.<sup>14</sup> Twenty-seven people were arrested; two of them, Fred Bauma and Yves Makwambala, have been the subject of serious charges, including conspiracy against the Head of State, and were detained in 2015. Rallies held in solidarity after the arrests were systematically repressed and protesters were arbitrarily detained and subjected to torture and other ill treatment. On 18 September 2015, four activists of the youth movement Struggle for Change (LUCHA) were convicted of inciting civil disobedience in violation of their right to peaceful assembly.

<sup>13</sup> New York Times, “Liberian President’s Ban on Rallies Is Seen as Political” 7 December 2014, [http://www.nytimes.com/2014/12/08/world/africa/liberian-presidents-ban-on-rallies-is-seen-as-political.html?\\_r=0](http://www.nytimes.com/2014/12/08/world/africa/liberian-presidents-ban-on-rallies-is-seen-as-political.html?_r=0)

<sup>14</sup> RFI, “RDC: 10 mois de détention pour les militants de Filimbi,” 15 January 2016, <http://www.rfi.fr/afrique/20160115-rdc-10-mois-detention-militants-filimbi>

# Freedom of Association



The right to freedom of association is protected under Article 22 of the ICCPR and Article 10 of the African Charter. Despite these protections, states continue to impose laws that are restrictive to the operation of civil society by adopting legislation that seek to limit the operations of NGOs with strict registration requirements and limitations on funding for activities. Such constraints undermine the role of NGOs and hinder their effectiveness.

## ■ North Africa

In North Africa, legislation governing associations undermines the inherent freedom to practice this right by imposing prior approval of authorities before an organisation is recognised as legitimate. Current laws require individuals wishing to establish an NGO to follow specific procedures and to submit a request to the regulatory bodies in their respective countries. In countries such as [Egypt](#), [Libya](#), [Algeria](#), and [Morocco](#), civil society must provide information about founders and the Statute of the Assembly.

Laws regulating association in Egypt, Algeria, and Morocco empower security authorities to conduct background checks on founders of an association and their activities prior to approval of registration. Additionally, ministries for internal affairs have the ability to approve founders and the purposes and fields of work of an organisation. In Morocco and Algeria, the Public Prosecutor has the ability to object to the establishment of an association

or revoke an association's authorisation even before it starts its activity.

Authorities often frustrate associations' attempts at registering by refusing to deliver the appropriate documents that could allow associations to prove its legal personality. Such actions compel associations to operate outside the framework of the law, which makes them liable to legal consequences.

There are also administrative restrictions such as requiring the organisation to have a minimum number of founders. For example, the Association Law in Libya stipulates that the number of founders should be at least 50. The Algerian Association Act (1990) has strict membership requirements for municipal, state, and national levels. For example, national organisations must have 25 members for associations and at least 12 branches in different states.<sup>15</sup>

Civil society and NGOs are faced with challenges of arbitrary closure and deregistration of associations through administrative orders without a court ruling. International standards require that such rulings on closure or deregistration of organisations should be effected only upon completion of the entire legal process, including the provision of all appeals. However, current laws in countries covered in this study do not follow these directives. For example, Egyptian law permits dissolving associations by administrative means and then grants associations the right to appeal

<sup>15</sup> Article (6) of the Algerian law

such actions. Subsequently, associations are not permitted to function unless a court ruling is announced invalidating the dissolving decision.

Many countries impose excessive penalties in cases of violations of the provisions of the law. Legislations restrict the activities of civil society through criminal penalties making voluntary participation in civic activities risky and laden with detrimental consequences, which contradicts recent trends that allow common law to determine the crime and the proportionate punishment.<sup>16</sup> Some of these legislations stipulate penalties that deprive liberty and impose hefty fines and prison sentences, such as the Libyan law on Associations and the Egyptian penal code.

## ■ East and Horn of Africa

Freedom of association throughout the sub-region has come under heavy fire over the past year, and in some countries is close to non-existent. In **Burundi**, it has continued to steadily deteriorate, and many leading human rights organisations have been forcibly closed down, had their bank accounts frozen, or have ceased their human rights activities altogether. On 23 November 2015, the Minister for Internal Affairs of Burundi suspended the activities of ten NGOs, including six major human rights organisations. The leaders of many of these civil society organisations have been subjected to

<sup>16</sup> "Towards a democratic law to liberate civil society: field and legal study" The Cairo Institute for Human Rights Studies (CIHRS) (n.d.): p. 44.

international arrest warrants, accused of taking part in the attempted coup, and have long since fled the country.<sup>17</sup> On 28 March 2016, one of the suspended organisations, PARCEM, was granted the authorisation to resume activities, still there are concerns over whether it will be able to operate freely and independently given the current situation. Since April 2015, over 100 HRDs have been forced to flee the country due to security threats to themselves and their families.

The right to freedom of association remains tightly controlled in Eritrea. Independent human rights NGOs are not able to operate, and there have been no international NGOs operating in the country since 2011. Since 1993, Eritrea has detained an estimated 10,000 prisoners of conscience without charge or trial, according to international rights groups. Prisoners are often detained indefinitely in brutal conditions resulting in starvation, illness, and even death.

In **Kenya**, the government often uses administrative measures to restrict the operating space for civil society. On 28 October 2015, the Kenyan NGO Registration Board passed the decision to de-register 957 Kenyan organisations, including the Kenya Human Rights Commission (KHRC), if they failed to present audited accounts to the Board within 14 days. KHRC was accused of failing to account for approximately **KES 1.2 billion** (approx. 10 million

<sup>17</sup> IBI Times, "Burundi: Rights activists condemn 'concerning' government ban on local NGOs", 26 November 2015, <http://www.ibitimes.co.uk/burundi-rights-activists-condemn-concerning-government-ban-local-ngos-1530639>

euros), managing four illegal accounts, and transmitting inaccurate financial reports. On 30 October 2015, the Cabinet Secretary for Devolution and National Planning revoked the decision to deregister the 957 NGOs, and the Kenyan Human Rights Commission put in motion a lawsuit against the NGO board.<sup>18</sup> On 12 November 2015, the High Court sitting in Mombasa abolished the freezing of the bank accounts for MUHURI and HAKI Africa. In his ruling, Justice Emukule stated that the Inspector General of Police (IGP), Joseph Boinnet's actions to freeze the organisations' bank accounts were unconstitutional and therefore invalid. MUHURI and HAKI Africa's bank accounts were frozen in April 2015 after being listed as specified entities under the Prevention of Terrorism Act (2012). The judge ruled that only the Cabinet Secretary has the powers to name "specified entities" if satisfied with the IGP's recommendations. Justice Emukule further stated that it was unclear when the 24 hours' notice given to the two organisations to respond to the Gazette Notice commenced and the actions of the IGP should have been specific.<sup>19</sup>

**Rwandan** human rights organisations continue to be the target of fierce persecution and intimidation. HRDs face difficulties in ensuring that their

<sup>18</sup> "Kenya: Administrative Harassment of The Kenyan Human Rights Commission" OMCT, World Organisation Against Torture, 13 November 2015, <http://www.omct.org/human-rights-defenders/urgent-interventions/kenya/2015/11/d23463/>  
<sup>19</sup> "Kenya: Court's Decision to Unfreeze The Banks Accounts For Haki Africa And Muslims For Human Rights", OMCT – World Organisation Against Torture, 13 November 2015, <http://www.omct.org/human-rights-defenders/urgent-interventions/kenya/2015/11/d23466/>

leadership remains independent from political influence. On 12 October 2015, the Executive Secretary of the *Ligue des Droits de l'Homme des Grands Lacs* (LDGL) was arrested, detained for hours, and questioned about his work permit and the registration of his organisation. The Immigration and Emigration Service had previously refused to deliver the NGO's registration certificate. On 13 October, seven members of the executive committee were taken in for questioning on the lawfulness of the general assembly that elected them.<sup>20</sup> The Executive Secretary of the LDGL was forced to step down a week later, and on 21 November 2016, a new executive committee was elected.

Freedom of association in **South Sudan** continues to be inhibited both at the state and national level. The National Security Service (NSS) and Military Intelligence (MI) regularly subject NGOs in South Sudan to threats and harassment. In late November 2015, 13 civil society activists were arrested and detained without charges in Wau, the capital of Western Bahr el Ghazal state.<sup>21</sup> The arrests were ordered by the city's mayor in response to a petition submitted by 14 civil society organisations about misconduct by security services. At least three were reportedly subjected to torture and two were held for seven days. In June 2016, the South Sudan Relief and Rehabilitation

<sup>20</sup> Rwanda in: "Amnesty International Report 2015/16: The State of The World's Human Rights", Amnesty International, 25 February 2015,

<sup>21</sup> "Urgent appeal: 13 activists arbitrarily detained in South Sudan should be immediately released", East and Horn of Africa Human Rights Defenders Project, 1 December 2015,

Commission announced that all NGOs must renew their certificates by the end of the month in accordance with new NGO laws.<sup>22</sup> In February 2016, the NGO Bill and the Relief and Rehabilitation Commission Bill were both signed into law amid concerns that they contained provisions contrary to international norms.<sup>23</sup>

The President of **Uganda** signed the Non-Governmental Organisations Act (2016) into law on 30 January 2016, and there are growing concerns the law may be selectively applied to target civil society.<sup>24</sup> Some clauses of the law may be used to restrict the operating environment of NGOs by outlawing activities interpreted as being prejudicial to the security, dignity, and interest of Uganda. Section 30 of the law limits the registration of organisations whose objectives contravene the laws of Uganda. Section 145 of the Penal Code Act prohibits same sex relations and the courts of Uganda have enforced these provisions, which could therefore allow the law to be used to prevent organisations working on SOGI-issues from carrying out activities.

## ■ Southern Africa

Freedom of association is protected in most Constitutions in the SADC countries. However draconian policies and

<sup>22</sup> Eye Radio, “NGOs asked to renew licenses”, 10 June 2016, <http://www.eyeradio.org/ngos-asked-renew-licenses/>

<sup>23</sup> International Center for Not-For-Profit Law “South Sudan”, [www.icnl.org/research/monitor/southsudan.html](http://www.icnl.org/research/monitor/southsudan.html)

<sup>24</sup> Uganda: Stranglehold on Independent Groups”, Human Rights Watch, 2 July 2015, <https://www.hrw.org/news/2015/07/02/uganda-stranglehold-independent-groups>, Accessed 25 March 2016

administrative practices have been used to stifle the operations of associations. For example, in **Zambia** the NGO Act (2009) presents obstacles to registration of associations. There is a requirement to produce a recommendation letter from a government ministry encouraging registration of an NGO. The Act is incompatible with the Constitution, as it sanctions imprisonment for registration delays. It requires the Boards of NGOs to approve the geographical area of operation of an NGO as well as the activities they envisage implementing. It also contains stringent requirements for Boards of organisations to consist of 15 members; seven must be representatives of CSOs and eight from government. Throughout 2014 and 2015, associations suffered deregistration threats from government after boycotting registration under the NGO Act. This law penalises the running of an unregistered NGO, punishable by imprisonment.

In **Zimbabwe**, registration of associations is also restricted by legislation that seeks to clampdown on the operations of HRDs. The Private Voluntary Organisations Act, sets a framework that undermines the independence of NGOs due to registration and reporting requirements. In some instances, the registration authority provided in this law has been accused of unduly delaying the registration of NGOs, and being unkeen to register those involved in human rights or democracy issues. Organisations dealing with sexual orientation and gender identity (SOGI) issues are not tolerated and are often

subjected to security attacks from State and non-State actors. Their members, or perceived members, are often subjected to arbitrary arrest and prosecution on trumped-up charges.

As Zimbabwe moves towards its next general election, NGO access to communities, particularly the rural and peri-urban communities, has continued to be constricted. Local political leadership has joined forces with some local government departments and sometimes state security actors to impose onerous administrative requirements. NGOs wishing to implement activities in communities have been advised to enter into a Memorandum of Understanding (MoU) with District Administrators (DAs), despite the fact that the law does not impose such a requirement. Other obligations accompanying these MoUs have been the submission of activity reports to a team that is not only composed of DAs, but also other state security actors. This severely undermined the ability of NGOs and communities to participate freely in these activities. In some instances, the request for work plans has led to state agents attending meetings to take notes.

In **South Africa** the Non-Profit Organisation Act (1997) recognises operations of associations and allows free registration that can be submitted online. The online registration has been reported to be futile and sometimes dysfunctional and with physical registration centralised at the Non-Profit Organisation (NPO)

Directorate within the Department of Social Development in Pretoria – this can make it difficult for NPOs from grassroots communities to register. Another challenge for community-based organisations established as voluntary associations is that they cannot open a bank account before they are registered, which can take up to six months. Organisations with board members based outside of South Africa may also find it difficult to open a bank account. At times civil society organisations have faced hostility from the government and in April 2016, the State Security Minister accused NGOs of working with foreign forces to destabilise the government.<sup>25</sup>

Freedom of association laws in **Mozambique** are outdated and do not address challenging realities. There are long bureaucratic processes that impede the registration of associations and the requirement to submit arduous documentation prevents many associations from observing the registration procedure, especially those from rural areas.

In **Angola**, freedom of association is regulated by Presidential Decree 74/15, which levies strict restrictions on registration and reporting of finances, and gives the Public Prosecutor the ability to suspend NGOs on “illegal or harmful acts against Angola’s sovereignty and integrity.”<sup>26</sup>

<sup>25</sup> News24, “Some NGOs are security agents of foreign forces – Mahlobo” 26 April 2016, <http://www.news24.com/SouthAfrica/News/some-ngos-are-security-agents-of-foreign-forces-mahlobo-20160426>

<sup>26</sup> Amnesty International, “Angola 2015/2016”, <https://www.amnesty.org/en/reports/angola-2015-2016/>

## ■ West Africa

In West Africa, States continue to impose laws which are restrictive to the operations of civil society.

As specified in Article 17 of **Liberia's** Constitution, all persons at all times have the right to associate fully with others or refuse to associate in political parties, trade unions and other organisations. Numerous civil society groups, including human rights organisations, operate in the country. The rights of workers to strike, organise, and bargain collectively are recognised, but labour laws remain in need of reform.

Freedom of association is protected under Article 3 of the national law protecting HRDs in **Cote d'Ivoire**, and in the country's Constitution. However, the right is often denied in practice and is subject to politicisation. Peaceful protests tend to escalate into violence, as was the case with demonstrations by ex-combatants in the town of Bouake in March 2014. In November 2015, the police in Abidjan used teargas and batons to disperse protests led by water vendors opposing a government ban on plastic bags used to carry water. The right to organise and join labour unions is constitutionally guaranteed, and workers have the right to bargain collectively. However, unions suffered greatly during the 2011 crisis and remain disorganised and largely ineffective.

While freedom of association is guaranteed in the Constitution of **Nigeria**, this excludes organisations working on SOGI-issues. In June 2013, the Same Sex Marriage Prohibition Act was passed, which criminalises organisations and persons who directly aid or indirectly aid or abet such unions. Homosexual activities are illegal in the country and the maximum punishment in the twelve northern states is death by stoning under the regions' strict Sharia law. In southern Nigeria and under the secular criminal laws of northern Nigeria, the maximum punishment for same sex sexual activity is 14 years' imprisonment.

## ■ Central Africa

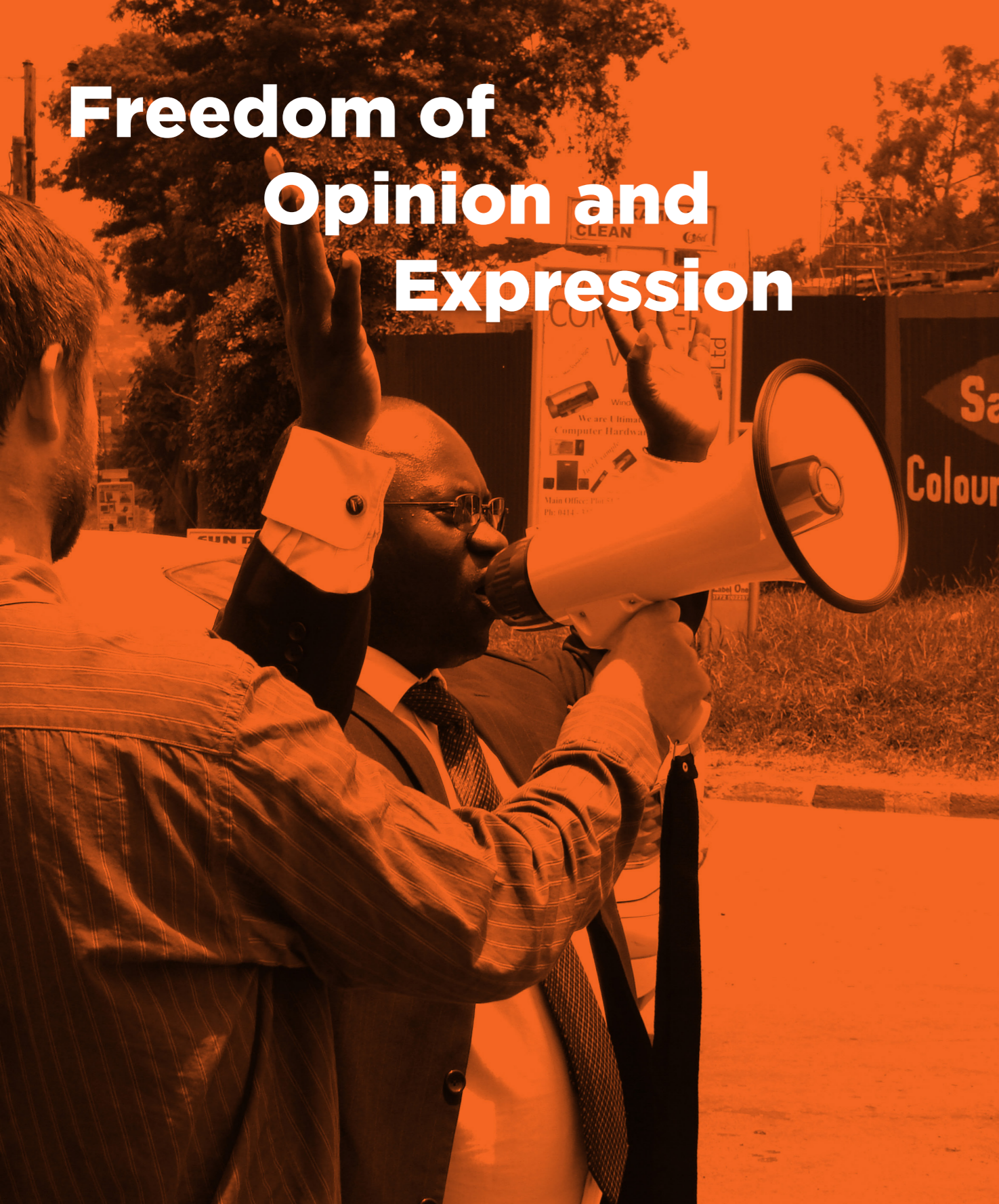
During the Anglophone protests in **Cameroon**, René Emmanuel Sadi, Minister of Territorial Administration and Decentralization issued a decree<sup>27</sup> on 17 January 2017, which bans and prohibits all activities of the Cameroon Anglophone Civil Society Consortium (CACSC).

The government used disproportionate forces on civilians that led to mass arrests, incommunicado detentions, arbitrary kidnapping and death of persons. Most of them are held in unknown and inaccessible locations at the SED (State Secretariat of Defense). Many are charged with treason, secession, and acts of terrorisms.

[www.amnesty.org/en/countries/africa/angola/report-angola/](http://www.amnesty.org/en/countries/africa/angola/report-angola/)

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# Freedom of Opinion and Expression



The protection of freedom of expression is still a controversial issue on the African continent, despite the strong existing African Human Rights System and mechanisms in place that protect the right to freedom of expression and access to information such as the African Union Constitutive Act 2000, the African Charter on Human and Peoples' Rights (the African Charter), the African Commission on Human and Peoples' Rights, the ACHPR Special Rapporteur on freedom of expression and access to information, as well as the Declaration of Principles on Freedom of Expression in Africa (The Declaration).

The Declaration, which interprets Article 9 of the African Charter, provides in Principles I and II that freedom of expression and information is a fundamental and inalienable human right, whose restriction should be provided by law and serve a legitimate interest in a democratic society.

Principle XI of The Declaration provides that intimidation and threats to media practitioners and others exercising their right to freedom of expression undermines independent journalism, freedom of expression and the free flow of information to the public. Principle XI also notes the obligation of State Parties to ensure that effective measures are put in place to prevent such attacks and, when they do occur, to investigate them, punish the perpetrators, and ensure that victims have access to effective remedies.

The protection of freedom of expression and access of information in Africa still remains a major challenge despite this armada of instruments.

The ACHPR has adopted a number of Resolutions calling on States to comply with the provision of the African Charter in this regards: Resolution on Freedom of Expression;<sup>28</sup> Resolution on the Adoption of the Declaration of Principles on Freedom of Expression in Africa;<sup>29</sup> Resolution on the Situation of Freedom of Expression in Africa;<sup>30</sup> Resolution on the Deteriorating Situation of Freedom of Expression and Access to Information in Africa;<sup>31</sup> Resolution on Securing the Effective Realization of Access to Information in Africa;<sup>32</sup> Resolution on Repealing Criminal Defamation Laws in Africa;<sup>33</sup> and the Resolution on the Safety of Journalists and Media Practitioners in Africa.<sup>34</sup>

In the process of assisting States, to ensure participation, transparency and accountability through free speech and access to information, the African Commission adopted the Model Law on Access to Information in Africa.

Furthermore, the African Court on Human and Peoples' Rights (the African Court) elucidated in its judgement on 5 December 2014, stating that

28 ACHPR.Res.54 (XXIX)01  
29 ACHPR.Res.62 (XXXII)02  
30 ACHPR.Res.99 (XXXX)06  
31 ACHPR.Res.166 (XLVIII)10  
32 ACHPR.Res.167 (XLVIII)10  
33 ACHPR/Res.169 (XLVIII)10  
34 ACHPR.Res.185 (XLIX)11



imprisonment for defamation violates the right to freedom of expression, while criminal defamation laws should only be used in restricted circumstances.<sup>35</sup>

### ◆ North Africa

In North Africa, journalists face severe threats and restrictions to freedom of expression. For example, in the first five months of 2015, there were over 30 attacks against journalists in Tunisia.<sup>36</sup>

There are a number of laws in North Africa that criminalise negative remarks about government authorities. For example, article 179 of **Egypt's** Penal Code penalises those who insult the President by imposing a fine between 10,000-30,000 Egyptian pounds (approximately 1,123 to 3,370 USD). Articles 195, 205, and 245 of the Libyan Penal Code stipulate prison terms for insulting public officials or the Libyan nation and on 22 January 2014, the Libyan General National Congress approved Resolution No. 5 that prohibits and bans broadcast satellite television stations that are critical of the government and the 2011 Revolution.<sup>37</sup>

Article 144 of the **Algerian** Penal Code penalises insulting state authorities in any manner of expression by an imprisonment term between two months and two years and a fine up to 500,000

<sup>35</sup> Application No. 004/2013: Lohé Konaté v. Burkina Faso

<sup>36</sup> <https://www.article19.org/resources.php/resource/37944/en/tunisia:-world-press-freedom-day>

<sup>37</sup> World Report 2015: Libya." Human Rights Watch. N.p., 29 Jan. 2015. Web. 13 Jan. 2016. <https://www.hrw.org/ar/world-report/2015/country/Libya>

dinars (approximately 4,511USD) while insulting the president is punishable under the same article by a fine of 100,000 to 500,000 dinars (approximately 902 to 4,511 USD). Insulting public officials is punishable under the Moroccan law, which stipulates imprisonment of one month to one year and a fine 250 to 5,000 dirhams (approximately 26 to 520 USD); insulting judicial officers during court sessions merit an imprisonment sentence of one to two years. The term 'insult' has a broad meaning and is not specifically defined, which does not allow the courts to observe law to rule the appropriate punishment.

Vague and ambiguous provisions of laws enable authorities to restrict freedoms and to punish any individuals who are at odds with the authority's ideology, or who are on the receiving end of vindictive actions.<sup>38</sup> For example, the penal codes of **Libya** and **Algeria** as well as **Morocco's** press laws penalise the publication of false news and destabilising the system.

### ◆ East and Horn of Africa

According to the Committee to Protect Journalists, **Eritrea** is the most censored country in the world. It is estimated that, there are currently at least 15 journalists in prison since 2010, and at least 32 have gone into exile. Many of the detained journalists have been held *incommunicado* since 2001, such as Dawit Isaak, a Swedish-Eritrean journalist, and Seyoum Tsehaye, the former head of national

<sup>38</sup> See "Freedom of Expression in Egypt and Tunisia."

television, who have yet to be given access to their lawyers, and whose families have not received any sign of life since their imprisonment.

Since the Anti-Terrorism Proclamation was enacted in 2009, it has been used on multiple occasions to imprison journalists, bloggers and critics of the government in **Ethiopia**. According to the Committee to Protect Journalists, 10 journalists currently remain in prison and 57 have gone into exile since 2010. Many HRDs and journalists have faced intimidation, threats and arbitrary arrests as a result of their work on the Oromo protests. On 19 December 2015, Fikadu Mirkana, a news anchor at Oromia Radio and TV, was arrested and taken into police custody. Within the same week, on 25 December 2015, Getachew Shiferaw, Editor-in-Chief of Negere Ethiopia, was also arrested in relation to his work covering the Oromo protests. Both remain imprisoned and have been denied access to legal counsel. Even after the Ethiopian Government withdrew their proposed Master Plan to expand the capital Addis Ababa, the protests and targeting of the media has continued. On 3 March 2016, Bloomberg correspondent William Davison and freelance journalist Jacey Fortin were arbitrarily detained for 24 hours along with their translator while reporting on the Oromo protests.

The 2013 Communications Act in **Kenya** introduced a new offence of "improper use of a licensed communications system," which has since been used to impede

the work of journalists and HRDs. On 19 January 2016, Edwin Reuben Ilah, a Kenyan blogger, was arrested and charged with "improper use of a licensed communications system" for posting images of Kenyan soldiers killed in an Al Shabaab attack in Somalia." Other cases of HRDs and journalists being charged under this provision have been reported, particularly in cases where individuals published materials related to terrorism and criticism of the government. On 14 March, Joel Ogada, a renowned environmental human rights activist, was arrested by Kenyan police allegedly for his human rights activities. Ogada is a farmer in the Marereni area at the Kenyan coast and is among the most vocal HRDs standing up for the land rights of the Marereni community. Ogada has been repeatedly confronted with arrests and detentions since May 2014 when he was sentenced to seven years' imprisonment on a conviction of arson.

**Rwanda** is noted as one of the most restrictive environments for HRDs in the sub-region, with little or no independent media and human rights organisations. In December 2015 the Rwandan Constitution was amended to protect and promote the right to freedom of expression. However, the newly amended Constitution has placed Rwanda's obligations under international treaties, such as the International Covenant for Civil and Political Rights, beneath the authority of the Constitution and the country's laws. Law 02/2013 regulating

the media officially guarantees the right to freedom of expression and opinion, however the parameters for restricting free speech are not clearly defined, and it does not adequately guarantee the protection of journalists' sources.

National and international journalists remain threatened and harassed for their work. The government's permanent ban on BBC's *Kinyarwanda* programs has been maintained since 29 May 2015. On 28 January 2016, John William Ntwali, an investigative reporter and editor for the Ireme news website, was accused of raping a minor, arrested and taken into police custody. He was taken to a Prosecutor's office five days later, and charged with indecent exposure after it was revealed that the woman showed no signs of violence and was 20 years old. He was held for another ten days before his release, although it is unclear whether the charges were dropped. Ntwali is one of the few investigative journalists left in the country, and has a background of arrests and detentions. In an interview with Radio France Internationale, he condemned these charges and reported that he had been threatened in connection with his work as a journalist. The Ireme website had previously been blocked in November 2015, reportedly by the Rwanda Media Commission. On 3 February 2016, Rwandan police entered the offices of regional newspaper The East African with warrants to search the newspaper's computers. One journalist was briefly arrested and taken to a police station for interrogation. He was released

several hours later. The reasons for this search and arrests remain unknown, however, they could be related to several sensitive articles that had recently been published by the newspaper.

On 29 December 2015, the Somali Federal Parliament passed a media law that was signed into law on 9 January 2016 by the President of Somalia. The law contains several provisions that infringe on media freedom. Articles 18 and 35 place restrictions on who can practice journalism. Journalists must be examined by the Media Council before they can be officially registered by the Ministry of Information. Journalists have expressed concern that the registration should be administered by an independent body to guarantee impartiality. Article 25 of the Media Law empowers the courts to order a confidential source to be revealed, a provision which has been included in several other media laws in the sub-region. Journalists and media houses that contravene this law can face excessive fines ranging between 500-3000 USD. Somalia remains one of the most dangerous countries in the world to be a journalist. It is ranked 172 out of 180 in Reporters without Borders' 2015 World Press Freedom Index. According to the Committee to Protect Journalists (CPJ), 41 journalists have been killed in Somalia between 1992 and 2015. Despite the fact that Somalia committed to eradicating continued impunity for perpetrators of the violations of the right to freedom of expression during its 2011 Universal Periodic Review, little has been done to

that effect. There is a trend of inadequate criminal investigations into violations committed against HRDs.

In South Sudan, the United Nations Mission in South Sudan (UNMISS) and the Office of the High Commission of Human Rights noted that since the civil war began in December 2013, "the media has repeatedly faced intimidation, harassment, threats and censorship, primarily from the security forces." Numerous journalists and HRDs have been beaten, received death threats, and reported they are under surveillance as a result of their work covering the conflict and the implementation of the August 2015 peace agreement. In 2015, at least seven journalists were killed and thus far none of the attacks have been investigated. These atrocities have continued into 2016 and since the beginning of the year at least six journalists and HRDs have been subjected to arbitrary detention. Many of those detained have been tortured and endured cruel and inhumane treatment.

On 30 December 2015, Joseph Afendi, journalist and editor of El Tabeer newspaper, was arrested and detained for writing an article critical of the ruling party a week before. He was then detained without charge until 19 February 2016. On 4 March 2016, he was kidnapped by unknown men and found four days later on 8 March 2016 in a graveyard, alive but with severe burns and torture marks on his body.

Freedom of expression and the press

remain deeply restricted in Sudan. Newspapers are regularly confiscated and suspended, and in the lead up to Sudan's elections in April 2015, NISS confiscated newspapers from media houses on 42 occasions. The 2009 Press and Publications Act gives the National Council on Press and Publications the ability to suspend newspapers for up to three days, however this is regularly violated as media houses are frequently suspended for extended periods of time. The Act also imposes severe punishments for editors of newspapers, which leaves them criminally liable for content published by their media houses. On 15 December 2015, Ahmed Yousef El Tay, editor of Al-Saiha, and Osman Marghani editor of El Tayar, were arrested and accused of publishing false news and undermining the Constitution. On 12 December 2015, both editors had written columns on energy consumption in Sudan with criticism of the Finance Minister's comments blaming citizens for electrical cuts. NISS confiscated the entire print run of El Tayar on 14 December 2015, and the following day suspended the paper indefinitely. This was the 15th time it had been confiscated over the course of 2015.

On 16 January 2016, the Tanzanian Minister of Information, Culture, Arts and Sports announced the government decision to ban Mawio, a weekly investigative paper. Simon Mkina, the Editor-in-Chief of the newspaper was also brought in for questioning by the police, along with his assistant editor Jabir Idrissa, for undisclosed reasons.

On 22 February 2016, four days after Uganda's presidential and parliamentary elections, Isaac Kasamani, a photojournalist with Associated Free Press, was pepper-sprayed by police forces while taking pictures of police arresting Dr. Kizza Besigye, an opposition political party leader at his residence in Wakiso District. Journalists were barred from accessing Dr. Besigye's home after his house arrest on 20 February 2016.

### ◆ Southern Africa

Most constitutions and legislative frameworks in the SADC region guarantee the right to access information and freedom of expression. South Africa, Angola and Mozambique have progressed in the adoption of legislation for promotion of access to information in their countries or having progressive constitutional guarantees (Zimbabwe and South Africa). However, in some instances, other laws still undermine this right, further inordinate, haphazard practices, including selective application of the law affects HRDs ability for free expression.

Laws have been passed in **South Africa**, like the Regulation of Interception of Communications and Provision of Communication-Related Information Act (RICA) which has been criticised for enabling surveillance of journalists and HRDs. Concerns regarding the interception of people's information without their knowledge or consent

are raised and whistleblowers are open to risks of targeting. As such, the right to privacy enshrined under Section 14 of the Bill of Rights is being infringed upon and there are new paradigm shifts in the direction of intolerance towards those advocating for truth and exposing malpractice in state institutions. They are subjected to aggression, surveillance, stigmatisation, restrictions on defending human rights, expression, and attempts to interfere with the independence of the judiciary and national human rights institutions.

In May 2016, public broadcaster the South African Broadcasting Corporation (SABC) introduced a censorship policy to restrict the broadcasting of violent protests especially where public property was destroyed, claiming it encourages other communities to follow such behaviour. Civil society and media have argued that this is tantamount to censorship and launched a complaint with the regulator, Independent Communications Authority of South Africa (ICASA) which upheld the constitutional values guaranteed for citizens to receive and disseminate information.<sup>39</sup> Despite this victory the SABC continued to violate the ICASA decision with impunity until the Helen Suzman Foundation brought a case against the SABC in the High Court, which was settled out of court on 20 July 2016.

<sup>39</sup> Mail & Guardian, "Civil society and the public need to challenge Hlaudi Motsoeneng's SABC censorship," 27 June 2016, <http://mg.co.za/article/2016-06-27-civil-society-and-the-public-need-to-challenge-hlaudi-motsoenengs-sabc-censorship/>

In **Zimbabwe**, the Access to Information and Protection of Privacy Act (2002), Broadcasting Services Act (2001), and Criminal Law (Codification Reform) Act (2004) continue to be used to intimidate HRDs and journalists. The Broadcasting Services Act generates several bureaucratic hurdles for media freedom in Zimbabwe. The Broadcasting Authority is highly influenced by the ruling party in fulfilling its broad powers of overseeing broadcasting in the country. The Access to Information and Protection of Privacy Act (AIPPA) has also been used to reduce the space for freedom of expression and press through a forced registration process for journalists. Wellington Mukhanairi, a journalist of the Weekly Messenger was arrested on 11 February 2016 and charged for operating without accreditation under the AIPPA Section 83, despite that section having been repealed in 2007.<sup>40</sup> His lawyer argued in court that the state prosecution knew the law is non-existent but had charged him with the intention to intimidate. The charges against him were later withdrawn. Following the July protests, a number of journalists were arrested during the course of their duties covering protests. Some were denied bail by the magistrate court, detained for weeks in custody, and only released after successful bail applications at the High Court.

On 7 January 2016, deputy editor of NewsDay Nqaba Matshazi and reporter

<sup>40</sup> Mail & Guardian, "Civil society and the public need to challenge Hlaudi Motsoeneng's SABC censorship," 27 June 2016, <http://mg.co.za/article/2016-06-27-civil-society-and-the-public-need-to-challenge-hlaudi-motsoenengs-sabc-censorship/>

Xolisani Ncube were arrested and charged for publishing falsehoods.<sup>41</sup> The two had published an article claiming the cash-strapped Zimbabwe government had secretly paid annual bonuses to members of the intelligence services ahead of other civil servants including teachers, nurses, and soldiers who had not been paid salaries. In April, three journalists, Earnest Mudzengi, Malvern Mukudu, and Mlondolozzi Ndhlovu were arrested in succession. They are part of the Media Center, an NGO that promotes the work of journalists. Mudzengi and Makudu were questioned over some details of a story published by their online news portal regarding an opposition party leader's demand for President Robert Mugabe to step down as the country's leader. Ndhlovu was arrested for issuing a press statement that was covering the arrest and detention of Mudzengi. Mlondolozzi was questioned and released without being charged by the police.

The authorities have also been reluctant to register community radio stations despite the limited reach of the national broadcaster. Other threats to freedom of expression include the continued application of insult provisions. A number of HRDs and ordinary citizens have been accused of insulting the office of the President. The government is also working on introducing a Cyber Crimes Bill that seeks to regulate the use of social media and Internet.

<sup>41</sup> The Herald, "NewsDay editor, reporter arrest," 8 January 2016, <http://www.herald.co.zw/newsday-editor-reporter-arrested/>

In **Swaziland**, the Suppression of Terrorism Act (STA) is used as an instrument to intimidate and harass HRDs and journalists who face arbitrary arrests, detentions, and unfair justice system.<sup>42</sup> For example, there is no free and independent media in Swaziland. In Angola, a State security law was passed to replace a 1978 law, known as Article 26. The new law outlines penalties for defamation and libel of the State, as well as arrest and detention for persons who “insult” the Republic of Angola or the president in “public meetings or by disseminating words, images, writings, or sounds.”

In **Malawi**, HRDs are stifled for raising serious governance issues and have faced death threats for criticising the government and calling for the resignation of the President due to the deteriorating political and economic status. For example, the staff of the Centre for Human Rights and Rehabilitation reported receiving death threats, while activists also reported having their offices and homes burnt down.

Article 3 of the **Mozambique** Constitution safeguards freedom of expression and the Right to Information Law (2014) regulates citizens’ rights to request information from any Mozambican state institution. This includes local and national authorities and private entities that by law or by contract carry out activities and hold information of public

42 Thulani Maseko a human rights lawyer and Bheki Makhubu magazine editor were arrested detained through enforcement of the STA arbitrary law.

interest.<sup>43</sup> HRDs and civil society consider the passing of this law as a victory after over ten years of advocacy in Parliament. However, there remains a great need to conduct public awareness of the law to empower citizens to use it for requesting information held by public and private bodies.<sup>44</sup>

### ◆ West Africa

In West Africa there have been systematic attempts to limit freedom of expression and restrict reporting. For example, in **Burkina Faso**, the High Council for Communications issued a ban on the live broadcast of political events for three months in the lead-up to the country’s elections which took place in May 2015.<sup>45</sup> In November 2015, the Parliament of Togo approved the addition of a new article to the penal code that imposes hefty fines of up to two million Francs CFA and prison sentences up to two years for publishing “false news,” despite rulings by the African Court on Human and Peoples’ Rights and a resolution by the ACHPR, which states that criminal defamation is counter to the African Charter.<sup>46</sup>

There have also been more targeted abuses against journalists and media stations in **The Gambia** where Alagie

43 Isaura Mauzelele Public Policy Monitoring – JOINT Liga em Mozambique

44 Ibid

45 RFI, “Broadcast ban in Burkina Faso targets live political programmes,” 23 May 2015, <http://en.rfi.fr/africa/20150523-broadcast-ban-burkina-faso-targets-live-political-programmes>

46 CPJ calls on Togo president to reject law that would impose jail terms for journalists,” 12 November 2015, <https://cpj.org/2015/11/cpj-calls-on-togo-president-to-reject-law-that-wou.php>

Abdoulie Ceesay, the Director of *Teranga FM*, was arbitrarily detained and arrested on 2 July 2015. Ceesay was later charged with the “publication of false news” and sedition.<sup>47</sup> For periods of his detention he was held *incommunicado* without access to legal counsel. Additionally in Cote d’Ivoire, *Aujourd’hui*, a daily newspaper, was suspended for one month after publishing articles on supposedly classified information accusing President Alassane Ouattara “of complicity in planning to rig the October 2015 elections, recruiting mercenaries, and purchasing arms in violation of a United Nations arms embargo.”<sup>48</sup> The paper’s editor and publisher, Joseph Gnanhoua Titi, was arrested and charged with publishing false news and insulting the president in relation to the article.<sup>49</sup> On 30 August 2015, Donu Kogbara, a renowned Nigerian journalist, was kidnapped by armed men from her home and held for six days.<sup>50</sup>

At other points, journalists have been assaulted when covering political events. In **Guinea** on 5 February 2016, El-Hadj Mohamed Diallo, a journalist for

47 Amnesty International, HRW, and CPJ, “Gambia: Free ailing journalist arbitrarily detained,” 9 March 2016, <https://www.amnesty.org/en/latest/news/2016/03/gambia-should-free-ailing-journalist-arbitrarily-detained-for-8-months/>

48 CPJ, “Ivory Coast authorities suspend a critical daily for one month,” 21 August 2016, <https://cpj.org/2015/08/ivory-coast-authorities-suspend-a-critical-daily-f.php>

49 RSF, “Newspaper editor jailed on charge of insulting president,” 30 July 2015, <https://rsf.org/en/news/newspaper-editor-jailed-charge-insulting-president>

50 Vanguard, “I was dumped in the creeks by my abductors – Donu Kogbara, renowned columnist”, 13 September 2015, <http://www.vanguardngr.com/2015/09/i-was-dumped-in-the-creeks-by-my-abductors-donu-kogbara-renowned-columnist/>

websites *Guinée7* and *Afrik* was shot and killed while reporting clashes that took place during political meeting the capital of Conakry.<sup>51</sup> In March 2015, Nigerian police detained Al Jazeera journalists Ahmed Idris and Ali Mustapha in their hotel for nearly two weeks in Borno state after they had covered military operations against Boko Haram.<sup>52</sup>

There were also attempts to limit coverage of court proceedings. On 12 August 2015, police officers refused to allow journalists to cover the proceedings of a case contesting parliamentary election results.<sup>53</sup> On 12 November 2015, Nigerian prison officials beat Emmanuel Elebeke, a journalist with Vanguard newspaper, after he took a photograph of suspects in a murder trial.<sup>54</sup>

### ◆ Central Africa

The Human Rights Council passed a resolution unequivocally condemning measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and called on all States to refrain from and

51 UNESCO, “Director-General condemns killing of journalist El Hadj Mohamed Diallo in Guinea”, February 2016, <https://en.unesco.org/news/director-general-condemns-killing-journalist-hadj-mohamed-diallo-guinea>

52 Al Jazeera, “Nigeria releases detained Al Jazeera journalists,” 5 April 2015, <http://www.aljazeera.com/news/2015/04/nigeria-releases-detained-al-jazeera-journalists-150405161952385.html>

53 PJ, “Nigeria police block journalists from covering court proceedings,” 14 August 2015, <https://cpj.org/2015/08/nigeria-police-block-journalists-from-covering-cou.php>

54 Sahara Reporters, “Vanguard Newspaper Journalist Brutally Attacked By Kuje Prison Officials”, 12 November 2015, <http://saharareporters.com/2015/11/12/vanguard-newspaper-journalist-brutally-attacked-kuje-prison-officials-0>

cease such measures.<sup>55</sup>

Yet, since January 2017 PAHRDN observed the devastating economic impact of the Internet blockade in North West and South West Cameroon, disrupted cellular communications and the closure of businesses as well as the equally devastating social impact on education, healthcare and safety and security that the government's crackdown and protest actions have brought to bear in this crisis. The repressive response by government has also had serious political impacts, most notably the shrinking of space for civic and political action that in turn undermines citizens' fundamental rights to freedom of expression, assembly, and political association.

Journalists in Central Africa exercise their profession in a difficult environment marked by suspicion and constant obstacles. The Constitutions of the Central African States guarantee freedom of expression but these provisions are rarely respected. Invited to the televised debate *Cartes sur Table* on 18 April 2017 aired by STV Channel, Dr. Pierre Bassong, Chairman of Medical Doctors Union (SYMEC) was denied to travel from Bamenda to Douala, a region of **Cameroon** under siege by security forces in response to the protests that started in October 2016. The house of the Secretary General of SYMEC, Dr. Patrick Ndoundoumou, who was invited to replace the Chairman, was besieged by security forces.

<sup>55</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21165&LangID=E>

Article 13 of the Constitution of the **Central African Republic** guarantees freedom of the press, including the freedom to disseminate opinions in speech and writing and the 2004 press law, abolished imprisonment for several press offenses, including defamation and slander. Nevertheless, HRDs continue to face challenges while exercising their freedom of expression. Heavy fines of up to one million CFA Francs (\$1,700 USD) may be imposed on journalists who are convicted of "inciting people to violence" or "disobedience to security forces." Journalists found guilty of defamation or slander are fined between one hundred thousand and eight million CFA Francs (\$170-\$13,675 USD). Similar fines and imprisonment for six months to two years may be imposed for publishing false or fabricated information that disrupt peace. Armed groups operating in the country have targeted journalists and media, especially community radio stations.

In **Cameroon**, several journalists were detained in 2015. Ahmed Abba, a **Nigerian** journalist with RFI, was arrested on 30 July in Maroua. For the first few months of his detention, he was held *incommunicado* before being accused of being complicit in terrorism and being in contact with Boko Haram. His trial began in February 2016 and he remains in police custody.<sup>56</sup> One month later, freelance journalist Simon Ateba was arrested on 28 August 2015 in Minawao refugee camp and held for four days. He was accused of being a spy for

<sup>56</sup> RFI, "Cameroun: Ahmed Abba, déjà un an derrière les barreaux," 30 July 2016, <http://www.rfi.fr/afrique/20160729-cameroun-ahmed-abba-an-derriere-barreaux>

Boko Haram while he was investigating the situation of Nigerian refugees that had fled attacks from the insurgent group.<sup>57</sup> In October 2014, journalists Rodrigue Tongue, of the daily *Le Messager*, Félix Cyriaque Ebolé Bola, of the South Media Corporation, Baba Wame, journalist and teacher at the School of Science and Information Technology (Esstic) were indicted by the Military Court of Yaoundé for "not reporting to the authorities about the information they have that would threaten national security."

In addition to threats against individual journalists, at times entire media houses have been targeted. In April 2015, representatives of three private national press organs, The Messenger, Mutations, and Emergence, and foreign newspaper *Le Monde* were summoned to the National Communication Council (CNC) following a complaint lodged by the Minister of Communication and government spokesman for "spreading false news, defamation, and violation of the honour of the head of state." They had published articles on the state of health of the President, the trip of the presidential couple abroad in March 2015, and human rights violations in the context of the war against Boko Haram.

Foreign journalists have also faced restrictions. For example, in **Chad** in 2015, RFI reporter Laurent Coureau was assaulted by police and then expelled

<sup>57</sup> IBI Times, "Social media saved me from inhuman detention says journalist Simon Ateba accused of spying for Boko Haram" <http://www.ibitimes.co.uk/social-media-saved-me-inhuman-detention-says-journalist-simon-ateba-accused-spying-boko-haram-1518945>

from the country<sup>58</sup> and in September 2014, two foreign journalists, Sadio Kante Morel from Mali and Elie Smith from Cameroon, were expelled from the **Republic of Congo**.<sup>59</sup>

<sup>58</sup> RFI, "RFI reporter thrown out of Chad," 24 June 2015, <http://en.rfi.fr/afrique/20150624-rfi-reporter-thrown-out-chad>

<sup>59</sup> RSF, "Sadio Kante Morel, une journaliste qui dérange les autorités congolaises" 26 September 2014, <https://rsf.org/fr/actualites/sadio-kante-morel-une-journaliste-qui-derange-les-autorites-congolaises>

# Recommendations

## To the African Commission on Human and Peoples' Rights

- Promote with a clear guideline of laws and practices on privacy and data protection, as well call for the ratification and implementation of related instrument such as the African Convention on Cybersecurity and Personal Data Protection;
- Promote the need for African States to ratify and locally implement the African Charter on Democracy, Elections and Governance, to ensure participation, accountability transparency, and end to impunity;
- Adopt *ad hoc* mechanisms to follow up decisions of the ACHPR with States and encourage prior wide consultations with regards to laws that will affects rights and freedoms of individuals;
- Call on the African Union under the auspices of the African Commission Special Rapporteur on HRDs to pass an additional protocol to the African Charter, which will protect and promote the rights of HRDs.

## To States

- Ensure that domestic legislation has consensus and conforms with African and international standards;
- Respect the UN Declaration on human rights defenders, the Declaration of Kigali, and the Declaration of Grand Baie, and to ensure that domestic legislation conforms to their regional and international obligations;

- Take take appropriate measures to investigate act of reprisals, attacks, break-ins or other forms of violations of HRDs and bring perpetrators or violators to justice;
- Respect and take adequate measure to implement decisions and rulings of the African Commission of Human and People's Rights and the African Court of Human and People's Rights;
- Follow the Cote d'Ivoire example in adopting policy and legal measures to guarantee safe working environments for HRDs;

## To Civil Society Organisations

- Continue to design a national, regional, and international strategy for their protection in relation to their contexts, and form national HRD coalitions to render them more dynamic and effective;
- Foster collaboration and networking in order to be more visible;
- Use new technology and appropriate measure to protect our work against interference;
- Engage constructive dialogue with State actors and effectively follow up decisions of the ACHPR and other relevant bodies;
- Observe the laws of the land and challenge unlawful practices through litigation.

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