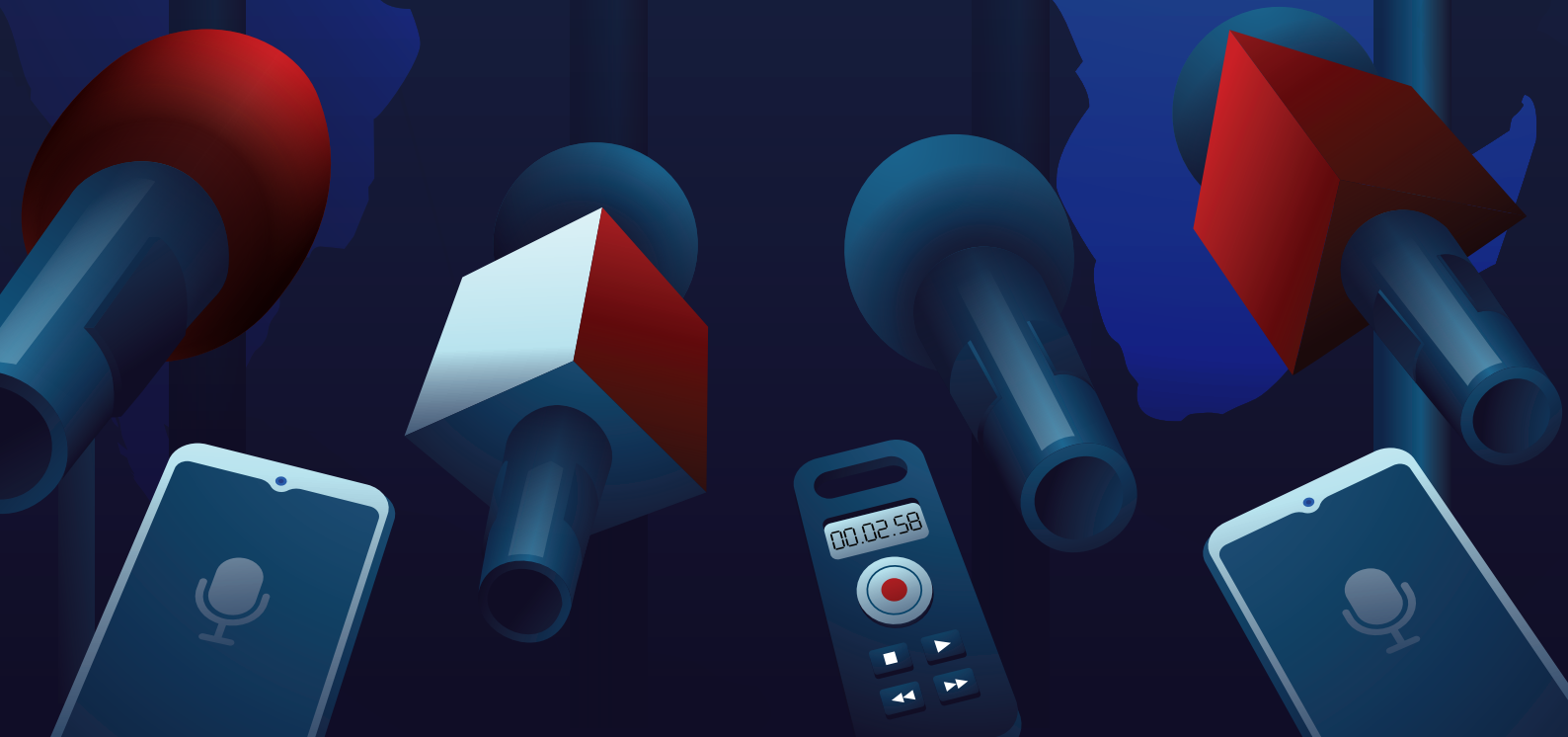# The State of Media **Freedom and Safety** of Journalists in Africa

November **2022**

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With the support of the
UNESCO Multi-Donor Programme on Freedom of
Expression and Safety of Journalists (MDP)

Foreword

UNESCO is at the forefront of advancing freedom of expression, press freedom, access to information and the safety of journalists. These are indispensable for the achievement of the 2030 Agenda for Sustainable Development in building peaceful, just and inclusive societies.

We are concerned about the increased deteriorating space for press freedom, access to information and safety of journalists in African Union Member states. There is a pressing need to identify and address the prevalent root causes of this deteriorating space.

African media stakeholders from journalists' associations, civil society, academia and development partners thus joined efforts to assess the state of journalists' safety and media freedom in Africa, through a contextualised indicator framework. This report examined the following eight areas: (i) the Legal and Regulatory Framework (ii) Media Pluralism and Diversity (iii) Journalists' Safety and Protection (iv) Media Independence (v) Internet Access and Affordability (vi) Media Regulation (vii) Surveillance and Privacy of Online Communication and (viii) Independent Content Producers.

As the Director of the UNESCO Liaison Office to the African Union, I am indeed very proud of this first report on the status of press freedom in the African continent, produced in collaboration with African Media Stakeholders through the support of the UNESCO's Multi-donor Programme for Freedom of Expression and Safety of Journalists (MDP). This concerted effort provides a basis for engagement by both duty and right bearers, which is important in ensuring a buy-in by all the stakeholders.

Together with our key partners, we are committed to support the African media stakeholders, by looking back, drawing lessons and planning for the future, in view of improving the status of press freedom and the safety of journalists on the continent.

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UNESCO Liaison Office to the AU,
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1.0   Introduction

The media in Africa continues to face serious challenges in the execution of its work. The minimal progress in the advancement of press freedom and freedom of expression on the continent has been whitewashed by legislation and actions by some states that continue to hinder the development of a professional and independent media.

According to the World Press Freedom Index 2021, the situation in 23 of 48 African countries assessed is classified as bad or very bad.[1] Reporters Without Borders (RSF) notes that press freedom violations are common on the continent and they include arbitrary censorship, especially on the internet, arrests of journalists on the grounds of combatting cybercrime, fake news or terrorism, and acts of violence against media personnel that usually go completely unpunished.[2]

Many areas of journalistic practice have been criminalised, with the adoption of cybercrime laws that prohibit the publication of false news or news deemed to threaten national security or public health, in countries such as Ethiopia, Kenya, Nigeria and Tanzania. In Egypt, cybercrime laws grant investigating authorities power to block or suspend locally-based or foreign websites featuring content that is deemed harmful to national security or the national economy.[3]

In 2021, 75 African journalists[4] had been imprisoned or detained by their governments in 12 countries. These violations are aggravated by attacks on individual journalists, including extra-judicial killings, forced disappearances and imprisonment, with incidents recorded in Algeria, Burkina Faso, Cameroon, Chad, Democratic Republic of Congo (DR Congo), Egypt, Ethiopia, Libya, Morocco, Rwanda and Somalia.[5]

Moreoever, in its 2019 Global Impunity Index, the Committee to Protect Journalists (CPJ) ranked Somalia as the world's worst country for the fifth year in a row, with respect to the prosecution of murderers of journalists. Likewise, South Sudan and Nigeria are listed among the 13 countries with the reputation of having the worst record in terms of prosecuting those who kill journalists because of their work. [6]

The upward trajectory of these infringements is worrying because the prospect of attacks, prosecution and even death impacts on the media's ability to operate effectively as their safety is compromised. Consequently, it becomes difficult for the media to competently play their roles as watchdogs and providers of credible information, which is essential for the functioning of democratic societies. According to Freedom House's Freedom of the World Report 2020, only seven countries in Sub-Saharan Africa were in the Free category - the lowest figure since 1991. Furthermore, only nine percent of the people in Sub-Saharan Africa lived in 'Free' countries, compared to 11% the previous year. However, the number of countries categorised as 'Not Free' was also dwindling, further bolstering the Partly Free bloc.[7]

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[1] RSF 2021 Index: Covid makes African journalism more vulnerable than ever https://rsf.org/en/analyse_regionale/588

[2] Africa The different facets of Africa https://rsf.org/en/africa

[3] Law No. 175 of 2018 on Anti-Cybercrime

[4] Seventy-five African journalists imprisoned for doing their jobs https://mg.co.za/africa/2021-12-21-seventy-five-african-journalists-imprisoned-for-doing-their-jobs/

[5] CPJ's database of attacks on the press https://cpj.org/data/

[6] Getting Away with Murder https://cpj.org/reports/2019/10/getting-away-with-murder-killed-justice/

[7] Democratic Trends in Africa in Four Charts https://freedomhouse.org/article/democratic-trends-africa-four-charts

Increasingly, digital media and independent content creators are also coming under attack from state and non-state actors through legal and extra-legal measures. Indeed, given the growing importance of digital technologies to press freedom and freedom of expression, various African governments are keen on monitoring and regulating online spaces. Moreover, state surveillance, which often targets journalists and undermines their privacy and safety, is a growing concern.

Indeed, Reporters Sans Frontieres (RSF) has reported that many countries, under the pretext of combating disinformation and hate speech online, have in recent years adopted new laws with vague and draconian provisions that are being used to gag journalism. This is in addition to a disturbing phenomenon - the increase in online attacks by trolls, specifically financed and coordinated to discredit or intimidate journalists. Many of these trolling campaigns are either closely or directly linked to the state.

Ensuring the safety of journalists is a leading priority in the global effort to support freedom of expression - a cornerstone of democratic society and a fundamental right enshrined in article 19 of the Universal Declaration of Human Rights. In support of this objective, the United Nations (UN) Plan of Action on the Safety of Journalists (UNPoA) and the Issue of Impunity was developed as a systematic plan to work towards a free and safe environment for journalists and media professionals. Developed in 2012 and spearheaded by The United Nations Educational, Scientific and Cultural Organization (UNESCO), this flagship programme provides an overarching framework for co-operation between all relevant stakeholders, inclusive of UN bodies, national authorities including media and communication regulators, media actors, and national, regional, and international media freedom advocacy organisations. The main modalities of action consist of promoting safety of journalists through mechanisms tackling the "4 Ps": Prevention, Protection, Prosecution and Partnerships. However, as this report shows, a decade after the promulgation of the UNPoA, the threats to journalists' safety remain stark within the African continent, although some wins have been registered.

1.1 Digitalisation and the Media in Africa

Between 2019 and 2021, internet use in Africa increased by 23%, with young people (40%) more likely to be connected than older people (27%).[8] Despite the growing number of internet users in Africa, the continent still lags behind other regions in terms of online access, with only 33% of Africans using the internet, compared to 87% in Europe, 61% in Asia-Pacific, 66% in Arab States and 81% in the Americas.[9]

The increasing penetration of new and emerging information and communication technologies (ICT), including the internet, has had a transformative effect on journalism and the communication sectors. The usage of ICT has created new opportunities, and enabled more people to communicate, seek and create information, organise communities of shared interest, and express themselves. The new technologies have helped to break the traditional communication barriers and ended the monopoly in the flow of information that was the preserve of the traditional or legacy media - specifically print and broadcast. In order to remain viable, several traditional media outlets have restructured to include internet and social media platforms for information sharing and audience engagement, with several journalists turning into online content creators as bloggers for their media houses or in their individual capacity.[10]

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[8] *ITU (2021) Facts and Figures https://www.itu.int/en/ITU-D/Statistics/Documents/facts/FactsFigures2021.pdf*
[9] *Ibid*
[10] *The Right to Blog https://www.article19.org/wp-content/uploads/2018/02/Right-to-Blog-EN-WEB.pdf*

Before digitalisation, media content creators and journalists mainly reached their audiences via broadcast media such as radio, television and print media such as magazines and newspapers. These traditional media platforms were at times difficult for emerging content creators and journalists to penetrate, largely due to high costs associated with set up, production and editing of video or radio programmes. There was also significant gatekeeping, meaning that only the articles and programmes approved by an editor or producer were published or broadcast. Other hurdles included the regulatory burdens placed on accreditation and fees associated with registration and licensing to practice journalism.

Today, with various internet-based platforms enabling video sharing, blogging and podcasting as well as social media platforms content creators and journalists have alternative platforms for publishing multimedia content to a wider online and global audience. This essentially cuts out the gatekeeping and expenses that were incurred by traditional media houses and broadcasting services. Accordingly, digital and social media are competing with traditional media as both sources of information and influencers of perceptions. These platforms enable journalists to spread information with speed and also maximise on reach and influence. In turn, these platforms enable ordinary citizens and citizen journalists to contribute to the news cycle as they are also empowered to break news or publish influential commentary on public affairs and swiftly reach large audiences, thus challenging traditional media's previous monopoly.

However, as social media is largely unregulated, its shortcomings, such as disseminating and amplifying misinformation, disinformation and hate speech, have provided some governments with a convenient excuse to clamp down on online communication and online expression.

Indeed, governments in several countries have initiated numerous measures, including the enactment of laws and policies aimed at enhancing control and curtailment of the digital civic space: through enabling the surveillance and interception of communication, the registering and licensing of online content creators, and limiting the use of encryption. Unfortunately, these policies and practices - many of which lack watertight safeguards against abuse - have had a negative impact on the practice of journalism and the safety of journalists in Africa.

1.2 Objective of the Report

This report seeks to serve two purposes. The first is to research and document the state of media freedom and safety of journalists in Africa and to provide specific and evidence-based recommendations to guide policy makers, media development organisations and other media freedom and human rights actors to address identified gaps that undermine the safety of journalists and media freedom in Africa.

Secondly, the report seeks to reinforce the safety of journalists and enhance legal and institutional frameworks by providing recommendations to support the implementation of the UN Plan of Action on the Safety of Journalists (UNPoA) and the Issue of Impunity.

2.0 Research Methodology and Scope

This report is the result of several efforts and inputs from two interlinked processes between 2021 and 2022 that sought to establish the state of media freedom and journalists' safety in Africa. These included (a) the development and validation of the African Media Freedom and Journalists' Safety Indicators and the commissioning of research across the continent based on these Indicators; and (b) Conducting continent-wide consultations to assess the achievements, gaps and room for improvement in the implementation of the UNPoA in Africa.

Results from these two processes culminated in the publication of this first Africa Media Freedom and Journalists' Safety Report 2022, to coincide with the 10th anniversary of the UNPoA.

2.1 The Africa Media Freedom and Journalists' Safety Indicators

To guide the process, UNESCO partnered with the Collaboration on International ICT Policy for East & Southern Africa (CIPESA) to review the different existing media assessment frameworks with the purpose of assessing their methodologies and values that could be adapted for the Africa-specific indicators. The findings of the study were to inform the development of a simple and easy-to-use tool (indicators) that would provide a framework for annual assessment and measurement of the state of journalists' safety and media freedom on the continent, taking the African context into consideration.

The study findings showed that several of the assessment tools and indicators used to measure the state of press freedom on the continent, such as those employed by Freedom House, RSF, the two UNESCO Media Development Indicators (2008), and the detailed UNESCO 2015 Journalist's Safety Indicators, were largely generic, using a universal approach across continents. The international media freedom indices were thus faulted for bias and subjectivity, including "the difficulty inherent in almost all international comparisons.''[11]

Nonetheless, the indices provided valuable guidance in developing the framework to guide the Africa assessments. Accordingly, the Indicators developed and used for the assessments that produced the Africa Media Freedom and Journalists' Safety Report 2022 drew from the ones of Freedom House, RSF, UNESCO, CPJ, CIPESA, Article 19, the African Centre for Media Excellence (ACME), Human Rights Watch, and Amnesty International. There are a total of eight assessment areas/indicators that include the legal and regulatory framework; media pluralism and diversity; journalists' safety and protection; media independence; internet access and affordability; media self-regulation; surveillance and privacy of online communication, and online content producers.

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[11]   *Media Freedom Indices: What They Tell Us – And What They Don't, https://www.dw.com/downloads/28985486/mediafreedomindices.pdf*

a. Legal and Regulatory Framework

This indicator examined the existing legal framework in a country and the extent to which it guarantees media freedom, access to information and freedom of expression, the right of journalists to work, and the media regulatory framework (statutory, hybrid or self-regulation). The indicator reviewed how the existing laws promote or infringe on media freedom and how they have been applied. The indicator also reviewed new or proposed legislation and their impact on media freedom.

b. Media Pluralism and Diversity

This indicator examined the level of media pluralism and diversity in terms of ownership (government vs private), rural vs urban, commercial vs community, and the representation of voices.

c. Journalists' Safety and Protection

This indicator assessed the level of safety and protection of journalists and media houses. It examined the cases of attacks (physical, threats, risks) against individual journalists and media houses. The indicator also assessed the preparedness of journalists and media houses to mitigate the effects of attacks - whether they possess the requisite knowledge, skills, and tools, including a safety plan.

d. Media Independence

This indicator assessed the degree to which the media can function independently of sources of political, governmental, business, and religious powers. This included examining the funding mechanisms for the operations of the media houses, funding for journalists to cover events, editorial policies, and processes, among others. It also examined aspects of the practice of self-censorship by journalists, and government demands for free airtime from radio and televisions.

e. Internet Access and Affordability

This indicator examined aspects such as internet penetration, access and affordability, cost of internet, levels of digital inclusion or exclusion, internet disruptions, digital taxation, and universal service funds.

f. Media Self-Regulation

This indicator examined the existence of journalists' unions and professional bodies that defend the rights of journalists and promote media standards in the study countries. It also assessed the existence and adherence to journalism codes of ethics by both media houses and individual journalists.

g. Surveillance and Privacy of Online Communication

The purpose of this indicator was to assess the ability of individuals to communicate anonymously on the internet, and to use appropriate technology to ensure secure, private, and anonymous communication. This entailed an examination of the existing government laws and policies, and practices on surveillance and encryption.

h. Online Content Producers

This indicator assessed the ability of citizens to produce and disseminate content via multiple avenues, including online platforms. It examined the freedom of bloggers, vloggers and citizens who are active on social media.

Four regional and sub-regional qualitative studies were conducted using the assessment indicators detailed above. The studies were conducted by CIPESA across Africa, in Eastern Africa by the Eastern Africa Editors Society (EAES), in West and Central Africa by RSF, and in Southern Africa by the Media Institute of Southern Africa (MISA). The current report consolidates the findings of those various studies.

2.2 Assessment of the Achievements, Challenges and Future Opportunities in the Implementation of the UNPoA

Over the second half of 2022, African media stakeholders and UNESCO conducted continent-wide consultations with a view to assess the achievements, gaps, and room for improvement in the implementation of the UNPoA in Africa. To kickstart the consultations, a meeting was held at the Africa Media Convention in Arusha alongside the African World Press Freedom Day celebrations in May 2022. Thereafter the UNPoA consultation guidelines for Africa were developed. In turn, these guidelines were employed for conducting three half-day online meetings, each of which was led by various media stakeholder organisations from a particular African region. The consultations led by Southern African stakeholders focussed on Areas 2 (Standard Setting and Policy Making) and 4 (Capacity Building); the ones organised by Eastern Africa-based actors discussed Areas 3 (Monitoring and Reporting) and 6 (Coalition Building), while the third, led by stakeholders from West and Central Africa, focussed on Areas 1 (Raising Awareness) and 5 (Research). All three consultations drew participants from all regions of the continent.

The organisations that participated in the UNPoA consultations included the Media Institute of Southern Africa (MISA), African Editors Forum (TAEF), the African Freedom of Expression Exchange (AFEX), Article 19, the Eastern Africa Editors Society (EAES), the Federation of African Journalists (FAJ), the Congress of African Journalists (CAJ), the International Association of Women in Radio & Television (IAWRT), International Media Support (IMS), Journalistes En Danger, the Kenya Editors' Guild, the Media Foundation for West Africa (MFWA), Media Rights Agenda (MRA), Namibia Media Trust (NMT), National Union of Cameroon Journalists (SNJC), the South African National Editors' Forum (SANEF), and the West Africa Journalists Association (WAJA).

The consultations were coordinated by CIPESA and UNESCO Offices in Eastern Africa, Southern Africa, Central Africa, and West Africa. Beside the national and regional media associations, the consultations also drew the participation of civil society organisations, government representatives, African Union (AU) bodies, diplomatic officials in the region, and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The discussions were informed by studies on the state of media freedom and journalists' safety in Africa, which UNESCO, CIPESA, MISA, East Africa Editors' Society, and RSF conducted over the course of 2022, using a common set of indicators as discussed above in sub-section 2.1.

3.0   Results

This section presents consolidated results from the two processes, namely the Assessment of State of Press Freedom and Safety of Journalists; and the Assessment of the Implementation of the UNPoA at its 10 year anniversary. The results are organised based on the eight assessment framework indicators developed for purposes of producing the first Africa Media Freedom and Journalists' Safety Report.

3.1   Legal and Regulatory Framework

The rights to freedom of expression and access to information are guaranteed in the constitutions of several African countries. Unfortunately, the enjoyment of these rights is sometimes limited by national legislation that provide for general limitations to enjoyment and sometimes criminalise free expression. Many national laws also grant excessive powers to political appointees, such as ministers, with the mandate to direct and regulate the media sector.

In Angola, Article 40 of the constitution provides that "everyone has the right to freely and publicly express and share opinions in words, images or by any other means." However, several provisions of the Press Law undermine media freedom as well as the rights to freedom of expression and access to information.[12] These include article 29 which authorises the Ministry of Social Communication to oversee how media organisations carry out editorial guidelines and punish violators with suspension of activities or fines. Article 35 imposes excessive fees to establish a media entity - 35 million kwanzas (USD 71,686) for a news agency, and 75 million kwanzas (USD 153,614) for a radio station. Article 82 criminalises the publication of a text or image that is "offensive to individuals."

In Benin, the 2015 Information and Communication Code guarantees the right of access to public sources of information, protects the confidentiality of journalists' sources of information by guaranteeing professional secrecy, and abolishes custodial sentences for press offences. In 2018 the government passed the Digital Code that restored the application of custodial sentences for journalists and is regularly used to arbitrarily convict and detain online journalists. For example, Ignace Sossou, an investigative journalist, was convicted under this law and spent six months in prison in 2020. The following year, two journalists were convicted under article 550 of the code for "harassment through electronic communication". In an opinion issued in October 2020, the United Nations Working Group on Arbitrary Detention noted that the Digital Law had many vaguely-worded provisions that, combined with its heavy criminal penalties, were liable to be used to penalise the peaceful exercise of human rights.[13]

Botswana has several laws including the Botswana Media Practitioners Act (2008), the Broadcasting Regulations (2004) and Botswana Communication Regulatory Acts (2012), that regulate the media. When invoked by the state, they override constitutionally guaranteed freedoms by giving discretionary powers to government officials and imposing harsh fines on those who breach the laws. Section 12(2) of the constitution permits restrictions on the exercise of freedoms due to reasons of national defence, public security, public order, public morality, and public health. Section 44 of the Directorate of Corruption and Economic Crime Act, for instance, prevents journalists from reporting on cases under investigation until such matters reach the courts or investigations are concluded. Moreover, the Media Practitioners' Act of 2008 criminalises journalism, intimidates journalists, and restricts media work, thereby encouraging self-censorship by journalists, editors, and publishers.

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[12] Angola: New Media Law Threatens Free Speech https://www.hrw.org/news/2016/11/30/angola-new-media-law-threatens-free-speech

[13] Benin urged to implement findings of Working Group on Arbitrary Detention https://rsf.org/en/benin-urged-implement-findings-working-group-arbitrary-detention

Moreover, the Media Practitioners' Act of 2008 criminalises journalism, intimidates journalists, and restricts media work, thereby encouraging self-censorship by journalists, editors, and publishers.

Although eSwatini's 2005 constitution promotes press freedom and freedom of expression, the government has not aligned the various legislation with the supreme law and restrictions on civil and political rights remain firmly in place. Indeed, media operations in eSwatini remain severely constrained by a plethora of laws meant to shield the monarchy from scrutiny. An example is the 2008 Suppression of Terrorism Act and the Sedition and Subversive Activities Act, which was first enacted in 1938 by the British colonial government.[14] If convicted under this law, individuals can be penalised with a prison sentence of up to 20 years. This laws, plus a range of others including the Proscribed Publications Act, the Cinematograph Act, the Obscene Publications Act, and the Protected Places and Areas Act, create a chilling environment for the media.[15]

The Ethiopian Media Authority (EMA) is mandated to issue, renew, suspend, and revoke media licences. The Authority is also in charge of determining the licensing condition of media companies. Under Ethiopia's 2012 Media Proclamation law,[16] journalists working for local media are not required to register if the media organisation they work for obtains a certificate of registration and legal recognition from EMA. Foreign media correspondents are required to register and get accreditation from EMA to operate in Ethiopia. The requirements for accreditation include support letters from their employers and the Ethiopian Ministry of Foreign Affairs. Foreign media correspondents' press cards are subjected to annual renewal by the Authority. The current EMA nine-member board of directors, which was formed in April 2022, has been criticised by media practitioners and human rights defenders as it comprises political appointees whose nomination and appointment lacked transparency. [17]

Côte d'Ivoire's law protects confidential sources of information. However, the Journalism Code of Ethics[18] specifies that a journalist must make it their duty to control the quality and accuracy of the information received. The same code authorises journalists to reveal their sources if it is proven that the sources intended to deceive the journalist. Côte d'Ivoire adopted its law on access to information of public interest in 2013, and its implementation is overseen by the Commission for Access to Information of Public Interest and to Public Documents (CAIDP).[19] The Joint Commission for the Allocation of the Professional Journalists and Communication Professional Identity Card (CIJP) is responsible for the accreditation of journalists issued cards to certify a person's status as a professional journalist.[20]

In Guinea, the press freedom law enacted in 2010 prohibits the sentencing of journalists to custodial sentences for offences committed in the exercise of their functions, a notable step forward for the press in the country. However, until 2021, journalists were regularly arrested and detained for varying lengths of time. In 2021, two journalists thus spent nearly three months behind bars, one for defamation,[21] the other for insulting the Head of State.[22] In addition, the organic law on the right of access to public information is not yet in force and is yet to be published in the official gazette despite its adoption in November 2020.

[14] Freedom of the Press 2016 - Swaziland https://www.refworld.org/docid/582ac6bc11.html

[15] Ibid

[16] Media Proclamation No. 1238/2021, https://chilot.me/wp-content/uploads/2021/04/Media-Proclamation-No.-1238-2021.pdf

[17]   The Ethiopian Reporter 2022. https://www.thereporterethiopia.com/article/parliament-approves-resolution-flouting-own-rules

[18] New Code of Ethics for Cote D'Ivoire Media? https://www.imediaethics.org/new-code-of-ethics-for-cote-divoire-media/

[19] Official website of CAIDP. http://www.caidp.ci/

[20] Remise des cartes de la CIJP 2022, Abidjan.net, publié le 28 janvier 2022 https://news.abidjan.net/articles/703634/remise-des-cartes-de-la-cijp-2022

[21] Communiqué de presse de Reporters sans frontières (RSF), publié le 25 février 2021. https://rsf.org/fr/actualites/guinee-rsf-demande-la-libera-tion-dun-journaliste-emprisonne-pour-diffamation

[22] Communiqué de presse de RSF, publié le 17 mars 2021. https://rsf.org/fr/actualites/guinee-rsf-demande-la-libera-tion-dun-journaliste-emprisonne-pour-offense-au-chef-de-letat

Lesotho has media laws that protect journalists and the media sector in general. In 2021, its Parliament passed a Media Policy that protects the right of all citizens to seek, receive and impart information or ideas. The policy paves the way for the development of stronger constitutional and legal safeguards governing the media sector in Lesotho. More importantly, the policy promotes the use of co-regulation of the media industry while at the same time encouraging journalists to hold each other accountable in upholding ethics.

In Malawi, the media is still constrained by several retrogressive laws such as the Penal Code, Official Secrets Act (1913), Printed Publications Act (1947), Censorship and Control of Entertainment Act (1968) and the Protected Flags, Emblems and Names Act (1981). These laws are invoked from time to time by the government to silence critics.

In Mozambique, the government has demonstrated its intention to restrict press freedom, even after the repeal of Decree 40/2018, which restricted the operations of the media. Mozambique's 2021 draft press law proposes a new regulatory body to replace the more independent Higher Mass Media Council, a creation of the country's constitution. The proposed regulatory body would essentially be controlled by the government.

Namibia's Constitution guarantees freedom of expression and by extension, the media. The country has an enabling environment that allows journalists to operate freely without fear of retribution, victimisation, or arbitrary arrests. Despite the foundation laid by the constitution for the creation of a liberal press, some journalists have been subjected to harassment as well as arbitrary arrests and prosecutions.

In South Sudan, article 24 of the 2011 Transitional Constitution provides that, "Every citizen shall have the right to freedom of expression, to reception and dissemination of information, publication, and access to the press without prejudice to public order, safety or morals as prescribed by law; (2) All levels of government shall guarantee the freedom of the press and other media as shall be regulated by law in a democratic society; (3) all media shall abide by professional ethics." In addition, section 13 of the Media Authority Act, 2013, guarantees media freedom and independence as well as makes provision for the protection of media and journalists. The law provides for the establishment of the Media Authority with a mandate to regulate the media in public interest. However, the Authority is not yet fully operational even though it was set up in 2016.

The law provides for the establishment of eight specialised committees within the Media Authority, tasked with different responsibilities including legal advisory, complaints handling, and licensing. However, these committees are yet to be established. This raises doubts about the Media Authority's transparency.

Tanzania's Constitution guarantees freedom of speech but does not specifically mention press freedom. This gap has left room for the government to routinely clamp down on the media industry. The Media Services Act 2016 empowers the government to control the operations of the media industry in the country. The information minister has the power to annually licence newspapers. The government has routinely used this law to shut down publications that criticise its policies or expose corruption. The minister can order publications to report on issues of "national importance". What is more, the minister enjoys de facto control of the Journalists Accreditation Board and the Independent Media Council, bodies that are charged with upholding ethical and professional standards in the media.

In Zambia, the newly elected government of President Hakainde Hichilema promised to improve the freedom of expression and media regulation landscape following years of deterioration under the leadership of former president Edgar Lungu. However, one year on, it is yet to deliver on the promised media reforms, and the media industry continues to push for the enactment of the Access to Information Bill that was crafted and tabled over 18 years ago. Back in 2020, the country's broadcasting regulator, the Independent Broadcasting Authority, cancelled Prime TV's licence "in the interest of public safety, security, peace, welfare or good order." This followed the closure of The Post newspaper by the government on allegations that the owners had a huge unpaid tax bill. The Supreme Court has since annulled the liquidation of the paper and ordered a retrial of the matter in the High Court. At the time, critics argued that the newspaper was closed because it was critical of Lungu's government.

In 2020, the Zimbabwean government enacted the Freedom of Information Act, marking the first step towards repealing the problematic Access to Information and Protection of Privacy Act, or AIPPA (2002). The AIPPA was to be replaced by three laws, namely the proposed Freedom of Information Act, the Zimbabwe Media Commission Act, and the Data Protection Act. The repeal of AIPPA was celebrated and appeared to cast President Emmerson Mnangagwa as a potential reformer, signalling a break from his predecessor Robert Mugabe's stranglehold on the media. However, in 2021, the government enacted the Data Protection Act and gazetted the Private Voluntary Organisations Bill. These two pieces of legislation have the potential to infringe on freedom of expression, association and privacy.

3.2 Media Pluralism and Diversity

Media pluralism and diversity on the continent remain a big challenge in terms of media ownership and distribution and the diversity of voices represented in the media. Even with the liberalisation of airwaves and the constitutional guarantees of media freedom, several challenges remain. These include the high costs of setting up a media house, skewed programming and censorship that hampers the inclusion of multiple voices, especially those from marginalised groups such as women, the elderly, and persons living with disabilities. For the majority of the countries studied, radio remains the primary source of information, with print media circulation in decline while online media is growing traction.

The Angolan media remains largely controlled by the ruling People's Movement for the Liberation of Angola (MPLA) party. The government owns the only radio and television station with national coverage as well as the official news agency.

In Benin, the number of radio stations rose following the liberalisation of the airwaves in 1997. Currently, the country has at least 70 stations, of which 40 were licensed in 2021. There are also 15 television channels alongside the state broadcaster, operating under the Benin Broadcasting and Television Office (ORTB). Benin has around 100 public and private newspapers. The Constitution and the organic law relating to the High Authority for Broadcasting and Communication (HAAC) guarantee pluralist expression of thought and opinion. The law also requires equitable access of political parties, associations and citizens to official means of information and communication. In practice, however, there is no real plurality of expression and opinions in the press, as public and private media refrain from openly criticising the government and those in power.

Burkina Faso has 185 radio stations, 161 online media sites, 82 newspapers and 32 television stations. Access to rich, reliable and diversified information is guaranteed by a wide range of media as well as by a well-established culture of investigative journalism.[23] The Superior Communication Council (CSC) appointed a commission to monitor the plurality of opinions in the media. In terms of gender equality, the Burkinabè media space is increasingly inclusive, and although women are still few at executive level in media companies, they are many in editing roles. For example, the coordinator of Droit Libre TV is a woman, the women's radio station Femina FM was created by women and the promoter of the Pengdwendé Community Radio in Sabou is also a woman. There are other women who hold editorial positions, such as at Burkina Info television, where the deputy editor and the editor are women. In online media, Radio Munyu was founded and is managed by women. Info Wakat and lefaso.net are also managed by women.[24]

Because of poor distribution networks and language barriers, the print media, whose content is mainly for the French-speaking, is struggling to develop and remains severely limited in terms of coverage. Online media outlets are evolving and their expansion has prompted the government to consider adopting a law to regulate the online media. Such a law would distinguish between traditional media and electronic media. Currently, there are no specific provisions that govern the creation of online media. Community, associative and private radio stations enjoy a special status in Burkina Faso since they are non-profit. However, they have for a long time been excluded from soliciting and running advertisements.

Côte d'Ivoire's media landscape is diverse with around 20 daily newspapers, 60 periodicals, 100 private, non-commercial and commercial radio stations, and five private television channels whose arrival in 2019 put an end to the monopoly of the Ivorian Television Broadcasting (RTI). Newspaper sales are in sharp decline and advertising is insufficient to support the development of viable and sustainable new media[25]

Botswana has 12 print newspapers, of which 11 are privately owned and one is state-owned. In addition, there are five radio stations (three privately owned and two state-controlled), one state-owned television station and one privately owned television station as well as a handful of digital platforms. The state-run media houses dominate the broadcasting sectors and have been accused by opposition parties of being pro-government and the ruling party.

In Ethiopia, the country's ethnic federalism philosophy is also reflected in the media landscape, with privately established outlets covering specific regions or ethnic languages. Currently, there are several media outlets that are owned by the government - 10 broadcast corporates and media agencies, five educational radios, and 10 regional TV. There are 13 and 20 privately owned commercial radio and TV stations, respectively, and 50 community radios stations.[26] For years, most of the population relied on state-owned broadcast media operated by the federal and regional states. The coverage and circulation of print media are also limited to urban centres[27] due to low adult and media literacy rates in the country and the shrinking profit margins due to sharp increases in printing costs associated with high import taxes on paper.[28]

23   Reporters Without Borders, Burkina Faso, https://rsf.org/en/country/burkina-faso

24   Le Baromètre des Médias Africains (BMA), Burkina Faso, 2019, pp 30-31, https://bit.ly/3DQLWSi

25   African Media Barometer Ivory Coast 2009, https://bit.ly/3DNUh9l

26   The Role of Community Radio for Integrated and Sustainable Development in Ethiopia: A
     Critical Review on the Holistic Approachhttps://www.preprints.org/manuscript/202012.0260/v1/download

27   Ethiopia profile - Media https://www.bbc.com/news/world-africa-13349401

28   Letter: Increase in printing costs exert heavy toll on free press in Ethiopia https://ipi.media/letter-increase-in-printing-costs-exert-heavy-toll-on-free-press-in-ethiopia/

Under its licensing mandate, the Ethiopian Media Authority is required to ensure diversity and plurality in the utilisation, ownership, production or distribution of broadcasting services and to prevent monopoly and ensure plurality and diversity of views. Broadcast programmes are also required by the law to reflect and accommodate the plurality, needs and values of the different sections of Ethiopian society.

To promote pluralism, the Authority issues community broadcasting service licences with fewer requirements for those who produce programmes that promote the interests of communities. The Authority may also change the rules on cross-ownership restrictions every three years after evaluating the state of the media, ownership status and its impact on market concentration and monopoly of ideas. However, the impact of government inequitable advertising revenue and public financial subsidies given to state-affiliated outlets is clearly manifested in the lack of media diversity and plurality in Ethiopia.

In eSwatini, there is no media diversity because of the country's restrictive media laws. Prohibitive cash bonds required from investors seeking to set up media platforms and draconian laws, such as the Books and Newspapers Act, discourage the establishment of new media outlets. Furthermore, the government's reluctance to issue new broadcasting licences is severely hampering the growth of the sector.

The Guinean press has experienced significant growth since the 1990s and evidences a pluralistic media landscape. There are about 65 newspapers, a dozen television channels, more than 60 rural, local and community radios which broadcast programmes in the different national languages, and up to 100 online news sites. The programmes and media coverage often reflect a diversity of voices in the country.

The Freedom of the Press Act of 2010 prohibits excessive media concentration and mandates the Guinean communication regulatory body, the High Authority for Communication (HAC), as well as the Post and Telecommunications Regulatory Authority (ARPT) to regulate ownership and monopoly. The government ensures compliance with measures to promote media pluralism, sets an institutional mechanism to support private media and ensures capacity building of professional media organisations. However, the private press often denounces cumbersome access to public information, and sometimes the exclusive coverage of government events by state-owned media. For instance, only state-owned Radio Télévision Guinéenne (RTG) covered the national consultations and the events of the National Rally for Development Committee (CNRD) linked to the January 2022 military coup.

Lesotho's mainstream media sector consists of 30 radio stations,[30] 10 newspapers, one magazine, two electronic media agencies and one state-owned national television station. The print media industry's growth has slowed down due to numerous challenges, including high printing costs and poor advertising revenues, especially from the government which rarely advertises in small scale newspapers and private media outlets.[31] On the other hand, the broadcasting sector, especially radio, has registered steady growth since the government liberalised the airwaves, ending the monopoly of the state-owned Radio Lesotho. Despite there being 30 terrestrial radio stations and one online radio station, the state-owned Lesotho National Broadcasting Services' television station still enjoys a wide audience. Digital media such as blogs, online newspapers, online radio and television stations are also mushrooming. There are only six community radio stations, which cover only part of the country.

29 *Issuance of Community broadcasting service license https://www.eservices.gov.et/application/1783/1025//instruction*

30 *'There are many radio stations, but the reach is limited' https://www.africa-press.net/lesotho/all-news/there-are-many-radio-stations-but-the-reach-is-limited*

31 *Africa Media Barometer: Lesotho 2018 https://library.fes.de/pdf-files/bueros/africa-media/15526.pdf*

Malawi has a diverse media industry where both the government and private owners have a significant role in the market in both the print and broadcasting media segments. The country also has a significant number of community radio stations and privately owned radio stations that have a national reach. Malawi has over 13 privately owned newspapers with the Nation Publications Limited and Blantyre Newspapers Limited enjoying a significant share of the media market.

In Mali, the fall of Moussa Traoré's dictatorial regime in 1991 led an explosion in the media landscape, which today boasts of more than 120 newspapers, at least 500 radio stations and several dozen television channels, including regional ones. However, the press, especially private media, suffer from a lack of funding and struggle to free themselves from the influence of their owners and advertisers. Moreover, the accreditation process for journalists working for foreign media, which was revised in early 2022, has become opaque, restrictive, and a threat to the confidentiality of sources.[32] In March 2022, the transitional government also ordered the suspension of RFI and France 24 after an investigation into summary executions committed by the Malian armed forces. Two months earlier, Prime Minister Choguel Maïga accused France of exercising "genuine media terrorism" against the government, with "the purpose of overthrowing it".

Mozambique's media sector has been growing exponentially since the adoption of a new Constitution in 1990 and the end of a brutal civil war in 1992. Despite a tough operating environment characterised by armed conflict in some parts of the country, legal restrictions on press freedom and economic difficulties, there has been a marked growth of privately owned media. Some of the recently established privately owned media companies include O Escorpião, O Magazine Independente, and the first free newspaper, A Verdade. There are also private broadcast companies such as Miramar Communication Network and SOICO TV (STV). In addition, state-run media outlets have been doing well to stick to their public service role, and community radio stations are serving the rural areas. However, there is still a need for legal reforms and an enabling business environment for the media to thrive.

Namibia has four daily newspapers comprising The Namibian, New Era, The Namibian Sun, and the Republikein. It has one weekly, Confidente; as well as online newspapers such as The Villager, The Brief, and the Windhoek Observer. There is also Die Allgemeine Zeitung – a daily German language paper. The Namibian, Confidente, The Namibian Sun, The Villager, Republikein and the Windhoek Observer are privately owned and critical of the government. Namibia has two mainstream broadcast media platforms, the state-controlled Namibian Broadcasting Corporation (NBC1, 2 and 3), and the privately run One Africa.

However, the state-controlled media organisations are seen as the government's mouth-piece and cover more content on government policy. Private media often run stories about corruption and editorials critical of the government. The existence of both private and state-controlled media creates a balance between positive coverage of the government and citizens' calls for accountability, transparency and exposure of negative developments in the country.

Niger has more than 67 private radio stations, around 15 private television channels, numerous online news sites and nearly 100 newspaper titles. State media are, in theory, public services to which access must be guaranteed in an equitable and effective way to all, with the mission of fostering democratic debate and promoting fundamental human rights. However, in practice, public media remain closed to critical and opposition voices. Similarly, under the Charter for Access to Public Information and Administrative Documents, the state must practice non-discrimination between public, private and community media to guarantee access to information. However, in practice, programmes, content, and media coverage do not reflect the diversity of voices and emerging issues in the country.

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[32] *Reporters without Borders 2022, Mali, https://rsf.org/fr/pays/mali*

In the past decade, Rwanda has made great progress in ensuring diversity and pluralism in the media, resulting in an increased number of media outlets such as radio and TV stations and online media. However, print media has been on the decline. As of December 2021, there were four Pay TV operators, 31 FM stations, 19 television stations, 24 online media houses, and 32 print media publications. Progress in pluralistic media promotion is attributed to the ease of starting a media house and an enabling environment for community media.[33]

A recent study conducted by Rwanda Governance Board (RGB), a public institution, cited the law regulating media as a key enabler for pluralistic media as it removed starting capital requirements.[34] Community media are also exempted from paying value-added tax (VAT) and their licence fees are subsidised.[35] However, despite these initiatives intended to promote pluralist media, some media operators have in the past argued that the state has not done enough. Diversity in content remains a big challenge as media tends to focus on entertainment and ignore other important issues in their programming. Further, private media outlets in Rwanda face economic challenges in comparison to their state-run counterparts, which receive income from government advertisements and direct subsidies. Besides, large businesses mainly advertise with state-owned or pro-government media outlets based on an unspoken rule.[36]

The Senegalese media landscape is pluralistic and diverse with at least 27 daily newspapers,[37] more than 20 general radio stations, nearly 100 community radio stations and 15 television channels. There are more than 300 online news sites although those that are professionally operated do not exceed 15.[38] Authorities strive to promote media pluralism and diversity through a Press Support and Development Fund (FADP), which allocated grants to at least 160 media companies and 150 community radio stations in early 2021.

In many cases, state media have easier access to official information than private media. Community radios in Senegal play an essential role, in particular thanks to their dissemination of information in local languages. However, they cannot be press companies as per their operating law, which presents a serious threat to their sustainability because their staff work as volunteers. On the editorial level, the race for the number of "views and clicks" is pushing many media, especially online publishers, to rush to publish information that is not complete or accurate. Gender equity in the media space is very limited, as public debate is still led by men or limited to them; male guests dominate political debate on television.

In Somalia, media ownership is divided between the government and private citizens and groups. The government owns Radio Mogadishu and the Somali National Television (SNTV) which was launched in April 2011. During the military rule (1969-1991), the media was heavily centralised and controlled by the state. However, the current media environment in the country is dominated by private ownership consisting of local and foreign radio and television stations. The ownership of such media houses is diverse, comprising local business people and persons in the diaspora.

The media is heavily focused in and on the urban areas, although a significant portion of the population is rural. The programming in the media, especially radio, which is the most easily accessible to the rural population, does not address rural communities' needs. In addition, the media is heavily invested in politics and security considering the situation in the country, leaving little room for them to promote pluralism and dialogue on other critical issues including human rights violations and social inclusion. Youth, marginalised groups, minority groups, and women's voices are not well represented in the media.

33 Rwanda Governance Board, ' Rwanda Media Barometer' , 2021, https://www.rgb.rw/publications?tx_filelist_filelist%5Bac-tion%5D=list&tx_filelist_filelist%5Bcontroller%5D=File&tx_filelist_filelist%5Bpath%5D=%2Fuser_upload%2FRGB%2FPublications%2FRWANDA_MEDIA_BAROMETER-RMB%2F&cHash=18adf18f968c1d51377ae9d2fb1422ca

34 Ibid

35 Ibid

36 Freedom House, 'Rwanda: Freedom on net 2017', https://freedomhouse.org/country/rwanda/freedom-net/2017

37 Figure put forward during the Media Conference organized on 13 January 2022 by SYNPICS

38 Interview with the President of APPEL

In South Sudan, the Media Authority Act 2013 encourages promotion of pluralistic and diverse media in the public interest. Article 42 of the Media Authority Act 2013 discourages the concentration of ownership. Sub-sections 1 and 2 state that "A legal or natural person shall not exercise direct or indirect control over more than one national free-to-air television service." The law further states that "A legal or natural person shall not exercise direct or indirect control over a national free-to-air broadcasting service and a national newspaper." Meanwhile, the annual charges levied on media houses for acquiring or renewing their frequencies by the National Communication Authority are SSP 200,000 (USD 500) or in acquiring operational licences by the Media Authority SSP100, 000 (USD 250) are considered high by a majority of the community radios.

Radio remains undisputedly the main source of news and information in South Sudan. Media houses in the country are mostly concentrated in the capital, Juba with only a few operating outside the capital. This is due to numerous logistical, economic, social, and political challenges. The violent conflict that started in late 2013 affected many state-based media houses. Some were ransacked and their equipment looted, while others voluntarily shut down because their staff fled for fear of their lives.

While Tanzania has gradually moved toward political pluralism and a market economy, the development of independent media has remained stunted. The media face a range of constraints, including diverse and overlapping forms of media capture. The government does not support or promote pluralist media although it ensures that the outlets are complying with the requirements of the law. For example, the law demands that they pay taxes, meet the programming requirements and all have the necessary business licences. So, the promotion of pluralist media is based solely on the initiatives of the media themselves. Government-owned media operate under the instruction of the government, and do not enjoy any editorial independence. Most of the stories run by the government-owned media, termed as public media, serve the interest of the government and not necessarily the public.

The government does not practise non-discrimination between different media but favours its own media by providing information freely and buying advertising. Government-owned media do not cooperate with private and community media in terms of content and advertisements booked by government ministries and parastatals. Private and community media struggle to secure adverts and access information because they are never given preference by the government.

Zambia has a pluralistic media system with private and state-owned print and broadcasting media houses. The country has 150 private radio stations and over 45 TV stations. There are also about 50 newspapers circulating in the country, ranging from dailies to weeklies. All these media houses have different sustainability challenges, with the key ones being commercial, financial, regulatory and human resources.[39]

Zimbabwe licensed eight new community radio stations in the last quarter of 2021,[40] bringing the total number of licensed community radio stations to 14. More than 40 years after independence, Zimbabwe has only one television station, the state-owned Zimbabwe Broadcasting Corporation (ZBC). The ZBC also runs five radio stations — Classic 263, Radio Zimbabwe, Power FM, National FM and the regional Khulumani FM and 95.8 Central FM. Several commercial radio stations have also been licensed over the past decade. The stations include Star FM and ZiFM, which have national coverage, and the regional Skyz Metro FM, CapiTalk FM, Hevoi FM and YaFM. Although these are privately-owned, they are often linked to the government. In 2020, the government licensed six television broadcasters, which are yet to start operations. One of the major criticisms of Zimbabwe's media sector is that it lacks diversity. The ZBC has been criticised for acting like, at worst, a party broadcaster and, at best, a state broadcaster instead of a public broadcaster.

39   Zambia: Freedom in the World 2021 https://freedomhouse.org/country/zambia/freedom-world/2021

40   Zimbabwe: 8 Community Radio Stations Granted Operating Licences https://allafrica.com/stories/202109160318.html

3.3 Journalists Safety and Protection

The safety of journalists has been on the decline across the continent. In many parts of Africa, journalists and media workers continue to experience relentless attacks that include killings, torture, enforced disappearances, arbitrary arrests and detention, intimidation, harassment, threats, and other forms of violence. It is disturbing that these attacks continue to be witnessed 10 years after the adoption of UNPoA. Moreover, while attacks on journalists are growing in several countries, the perpetrators, who often include security agents and other state officials, are rarely held to account for their actions.

3.3.1   Arrests and Prosecution of Journalists and Online Content Creators

Across the continent, several journalists and online content creators have been arrested, detained and some prosecuted for their online activities. The authorities have largely relied on the retrogressive provisions of some cyber laws and/or penal codes.

In Benin, certain legal provisions may be used to intimidate or prosecute journalists. For example, the 2019 Law on Defence Secrecy is considered particularly severe, since the violation of the secrecy principle is treated as a crime and is punishable by between 10 and 20 years in prison. This law makes it difficult for journalists and citizens to access information and archives. Additionally, article 550 of the Digital Code created a new offence of "harassment through electronic communication", which has already been used to imprison several journalists.

In Burkina Faso, defamation lawsuits are becoming common and most media outlets or journalists sued often lose and have to pay exorbitant fines. Authorities banned journalists from accessing sites for internally displaced persons at the end of 2020, using the pretext of the difficulty of ensuring their safety.[41] This deterioration in the safety of journalists crystallised in April 2021, when Spanish war reporter David Beriain and his camera operator Roberto Fraile were killed while reporting in the east of the country.[42] The death of these journalists marked the end of a period of more than 20 years during which no journalist had been killed in the country.

Côte d'Ivoire has not recorded any cases of the disappearance of a journalist in recent years apart from that of French-Canadian journalist Guy-André Kieffer in an Abidjan parking lot in 2004 while investigating embezzlement.[43] However, the imminent threat drives journalists to fear and even to self-censorship. In October 2020, the Foreign Press Association in Côte d'Ivoire (APECI) recorded physical and verbal attacks and threats on social media from supporters of political parties and the military.[44] In May 2020, investigative journalist Claude Dassé was beaten and threatened with death by prison guards while investigating alleged racketeering at Abidjan prison.[45] In March 2021, a journalist covering the legislative elections in the centre-west region was attacked by the bodyguard of a politician.

In Ethiopia, Yayesew Shimelis, a journalist, was the first person to be arrested, detained, and charged[46] in March 2020, under the country's disinformation and hate speech law of 2020. He had posted on his Facebook and YouTube accounts information about COVID-19 which the Ministry of Health deemed false. The country has a longstanding record of state surveillance and arrests of journalists and independent content creators, such as the Zone9 bloggers and Eskinder Nega.

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41   Insecurity hampers access to displaced people in northeast Burkina Faso, https://bit.ly/3TjYmbl

42   In Burkina Faso, Spanish journalist killings underscore broader dangers to the press, https://bit.ly/3UDf8mJ

43   Disappearance of Guy-André Kieffer: "The investigation must be reactivated and the promises honored" (RSF), https://bit.ly/3tfwL08

44   Presidential election 2020- Apeci denounces "threats" and "aggression" against foreign press correspondents; https://bit.ly/3Unoh2S

45   Ivorian justice opens an investigation into the attack on a journalist in Abidjan prison, https://bit.ly/3WJWsUe

46   News update: Prosecutors charge journalist Yayesew with newly enacted hate speech law, https://addisstandard.com/news-update-prosecutors-charge-journalist-yayesew-with-newly-enacted-hate-speech-law/

Kenyan authorities have over the years arrested, summoned, and prosecuted several individuals for content shared on social media platforms.[47] In August 2017, controversial Kenyan blogger Robert Alai, now a politician, was arrested and forced to delete content from his Facebook page.[48] He had posted photos of members of President Uhuru Kenyatta's relatives mourning the death of a family member at a Nairobi hospital. In 2019, the blogger was again arrested and forced to delete pictures of police officers who had been killed in a terrorist attack in Wajir County that he had posted on his Facebook page.[49] Government officials called the publication of the pictures "irresponsible" and accused the blogger of "glorifying terrorism." Alai was also arrested in 2021 under section 22(1) of the Computer Misuse and Cyber Crimes Act for publishing allegedly alarming and false information in a Twitter post stating that two people had died of COVID-19 in Mombasa. Another blogger, Cyprian Nyakundi, was detained[50] the same week for allegedly making false claims on Twitter related to COVID-19. The Bloggers Association of Kenya (BAKE) has often condemned the arrest and intimidation of Kenyans online, which it considers tantamount to "criminalisation of civil matters."

In Nigeria, authorities have used contentious sections of the country's Cyber Crimes Act to arrest, detain and prosecute bloggers, journalists, and content producers as well as citizen journalists, such as Jones Abiri,[51] Ime Sunday Silas,[52] Fejiro Oliver,[53] and Rotimi Jolayemi.[54] In May 2020 the manager of the New Media Centre, Ambrose Nwaogwugwu, was arrested after sharing a Facebook post allegedly defaming the Imo State Governor. He was charged under the Cybercrime Act 2015 and the Terrorism Act 2011.[55] In February 2022, Nigerian journalist Omoyele Sowore was arrested[56] under section 418 of the Penal Code[57] and section 59 of the Criminal Code for cyberstalking the presidency and publishing false information. In March 2017, a blogger, Kemi Olunloyo,[58] was arrested under the Cybercrime Act and detained for 90 days for a post on social media alleging adultery by a prominent pastor.[59]

Similar arrests and prosecutions have been documented in Cameroon. For example, in January 2016, Baba Wame, the president of the Association of Cyber Journalists; Rodrigue Tongue, a reporter who formerly worked for the privately owned daily Le Messager; and Félix Cyriaque Ebolé Bola, a reporter for the privately-owned daily Mutations, were charged before a Cameroon military court for failing to disclose information and sources that could harm national security.[60]

47 New Year, Old Habits: Threats to Freedom of Expression Online in Kenya https://cipesa.org/2016/01/new-year-old-hab-its-threats-to-freedom-of-expression-online-in-kenya/

48 Why Statehouse Operative Ordered CID Police to Arrest Blogger Robert Alai https://www.kenya-today.com/politics/statehouse-operative-or-dered-cid-police-arrest-blogger-robert-alai-arrested

49 Blogger Robert Alai arrested for posting gory photos https://www.capitalfm.co.ke/news/2019/06/blogger-robert-alai-arrested-for-posting-gory-photos/

50 Police hold blogger Nyakundi over Covid-19 Twitter post https://nation.africa/kenya/news/police-hold-blogger-nyakundi-over-covid-19-twitter-post-281064

51   Nigeria charges Weekly Source editor Jones Abiri under cybercrimes, terrorism acts https://cpj.org/2019/05/nigeria-charges-jones-abiri-weekly-source-terrorism/

52 Nigerian journalist Ime Sunday Silas held since August on cybercrime charge https://cpj.org/2020/09/nigerian-journalist-ime-sunday-si-las-held-since-august-on-cybercrime-charge

53 Nigerian journalist Fejiro Oliver charged with cybercrime for corruption report https://cpj.org/2020/02/nigerian-journalist-fejiro-oliver-charged-with-cyb/

54 After 16 Days In Custody, Police Charge Journalist For 'Causing Annoyance' Towards Lai Mohammed https://thenigerialawyer.com/after-16-days-in-custody-po-lice-charge-journalist-for-causing-annoyance-towards-lai-mohammed/

55 PDP official charged with terrorism for accusing Imo gov of giving land to herdsmen https://punchng.com/pdp-official-charged-with-terror-ism-for-accusing-imo-gov-of-giving-land-to-herdsmen/

56 Police arrest Sowore in Abuja over alleged fake news peddling https://www.vanguardngr.com/2022/02/police-arrest-sowore-in-abuja-over-alleged-fake-news-peddling/

57 Penal Code, section 41 - "Whoever circulates, publishes or reproduces any statement, rumour or report which he knows or has reason to believe to be false with intent to cause or which is likely to cause fear or alarm to the public whereby any person may be induced to commit an offence against the public peace, shall be punished with imprisonment which may extend to three years or with fine or with both.
    https://policehumanrightsresources.org/content/uploads/2016/07/Penal-Code-Northern-States_-Federal-Provisions-Act-1960.pdf?x96812

58 Police Arrest Kemi Olunloyo Over Blog Post Accusing Pastor Of Adultery http://saharareporters.com/2017/03/17/police-arrest-kemi-olun-loyo-over-blog-post-accusing-pastor-adultery

59 Breaking: Kemi Olunloyo Visits Pastor David Ibiyeomie, Preacher Who Allegedly Locked Her Up In Prison https://reportafrique.com/news/africa/nigeria/breaking-ke-mi-olunloyo-visits-pastor-david-ibiyeomi-port-harcourt/

60 Three journalists face military trial in Cameroon https://cpj.org/2016/01/three-journalists-face-military-trial-in-cameroon.php

The journalists, who were first charged in October 2014, denied the charges, and faced jail terms of between one and five years and fines of between 50,000 and five million Central African Francs (USD 83 to USD 8,257). However, the three were acquitted in October 2017.[61] In December 2017, a writer, Patrice Nganang, was arrested soon after posting several messages on his Facebook account criticising President Paul Biya and the government.

In Tunisia, at least 40 bloggers, administrators of widely followed Facebook pages, political activists and human rights defenders were reported to have faced criminal prosecution between 2018 and 2020 simply for publishing online posts critical of local authorities, the police or other state officials.[62]

In Senegal, several activists have been arrested for their speech on social networks for the "offence to the Head of State" and "attack on the security of the State".[63] For example, Adama Gaye, a journalist and activist, was arrested in July 2019 for making remarks on Facebook deemed by authorities to be insulting to President Macky Sall and undermining the security of the state.[64] His posts related largely to governance, official corruption and the management of the country's oil resources.

In Rwanda, three journalists operating a YouTube news channel called 'Iwacu TV' were arrested in 2018. Jean-Baptiste Nshimiyimana, Shadrack Niyonsenga and Damascene Mutuyimana were charged with spreading "false information or harmful propaganda" with the intention to cause hostile international opinion against the Rwandan government, causing uprising or unrest among the population and formation of and joining a criminal organisation.[65] The three Youtubers denied the charges, which could have seen them spend at least 22 years in prison and pay fines of up to five million Rwandan francs (USD 4,687).[66] However, in October 2022 the three journalists were acquitted of the charges for lack of evidence.[67]

In Tanzania, several people have been arrested and some prosecuted, mostly under section 16 of the country's 2015 cybercrimes law. Digital rights activist and JamiiForums proprietor, Maxence Melo, tasted the acrid side of the law when he was jailed for failure to disclose JamiiForums user data.[68] In Dodoma, Sospiter Jonas was charged in October 2015 with "misuse of the internet" after posting on Facebook that Tanzanian Prime Minister Mizengo Pinda "will only become a gospel preacher".[69] The government has indeed over the years used this law to arrest and prosecute social media users for expressing what many see as legitimate opinions.[70]

In Zimbabwe, prominent freelance journalist Hopewell Chin'ono was arrested on more than one occasion between 2020 and 2021, over posts made on his Facebook and Twitter pages.[71]

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61 Cameroon: 03 years later, Rodrigue Tongué, Baba Wame and Félix Cyriaque Ebole acquitted by justice
https://www.lebledparle.com/societe/1103674-cameroun-af-
faire-des-3-journalistes-et-autres-rodrigue-tongue-baba-wame-et-felix-cyriaque-ebole-declares-non-coupables-et-acquittes

62 Tunisia: Freedom of expression at risk as prosecutions rise https://www.amnesty.org/en/latest/news/2020/11/tunisia-freedom-of-expression-at-risk-as-prosecutions-rise/

63 Senegal: "Justice wants to keep Adama Gaye in prison as long as possible"
https://www.jeuneafrique.com/811477/politique/senegal-la-justice-veut-maintenir-adama-gaye-en-prison-le-plus-longtemps-possible/

64 Senegalese journalist Adama Gaye arrested: yes, freedom of expression has limits!
https://lecourrier-du-soir.com/arrestation-du-journaliste-senegalais-adama-gaye-oui-la-liberte-dexpression-a-des-limites/

65 AFP, Rwandan Youtuber's trial postponed, http://apanews.net/en/news/rwandan-youtubers-trial-postponed

66 Rwandan prosecutors request 22-year prison sentences for 3 Iwacu TV journalists https://cpj.org/2022/09/rwandan-prosecutors-re-
quest-22-year-prison-sentences-for-3-iwacu-tv-journalists/

67 Rwandan court acquits, releases 3 Iwacu TV journalists
https://cpj.org/2022/10/rwandan-court-acquits-releases-3-iwacu-tv-journalists/

68 CIPESA, UPDATE: Maxence Melo Charged with Obstruction of Investigations and Operating a Domain Not Registered in Tanzania, https://cipesa.org/2016/12/up-
date-maxence-melo-charged-with-obstruction-of-investigations-and-operating-a-domain-not-registered-in-tanzania/

69 Two Tanzanians accused of False Information Face Charges under new Cyber Crimes Law, https://advox.globalvoices.org/2015/10/19/two-tanzanians-ac-
cused-of-posting-false-information-face-charges-under-new-cybercrime-law/

70 Is Tanzania Becoming an Internet Freedom Predator? https://cipesa.org/2016/04/is-tanzania-becoming-an-internet-freedom-predator/

71 See High court quashes Chinonos Charge on Publishing Falsehoods https://misa.org/blog/high-court-quashes-chinonos-charge-on-publishing-falsehoods/ https://www.-
france24.com/en/africa/20200721-zimbabwe-journalist-arrested-hopewell-chin-ono-was-charged-with-inciting-violence ; https://www.news24.com/news24/af-
rica/news/zimbabwe-court-clears-journalist-hopewell-chinono-over-incitement-of-public-violence-case-20211206

3.3.2 Trolling and Online Harassment of Journalists

Trolling and online harassment of journalists is increasingly becoming commonplace. In fact, being insulted and harassed online has simply become part of the job for most journalists.[72] According to RSF, the persecution of journalists in many Sub-Saharan Africa countries has moved online with the practice becoming the new way for governments to censor journalists who are targeted using trolls and fake accounts. Although rarely acknowledged, this threat is widespread and is hindering press freedom.[73] A 2017 survey by Fray Intermedia of 307 journalists from 36 African countries who use social media to engage with their audience, found that 48% had been harassed. The research also determined that while both sexes were likely to experience trolling, more women had been sexually harassed and more men had been threatened.[74]

In various countries, the trolls have been linked to the government, the ruling party or leading political figures. In Kenya, a troll attack[75] in June 2022 against the Nation Media Group, under the hashtag #NationMediaGarbage was coordinated by a group known to be sympathetic to the country's then president Uhuru Kenyatta. The country is also known to have social media influencers for political hire, who are paid to directly harass and discredit journalists, as well as judges and civil activists.[76] Government functionaries in countries like Rwanda[77] and Egypt have run harassment campaigns against critical journalists, including foreign correspondents. In addition, Zimbabwe's ruling party and senior government officials are reportedly among those running[78] troll farms that regularly target journalists.

Some of the threats are now moving from online to offline space. In large Burkinabè cities during demonstrations, media professionals have become the prime target of threats and violence, as evidenced by the injuries to reporter Ibrahim Compaoré, who was hit by a projectile while covering a protest rally against insecurity in the country in January 2022.

In 2020, Amnesty International accused[79] Somalia's government of creating teams of online monitors who trolled journalists and reported them to Facebook's content moderation teams in order to disable their accounts and silence critical media voices. Amnesty stated that newly set up social media-monitoring teams housed in the Offices of the President, the Prime Minister, and the Information Minister had made it easier to crack down on journalists online. These efforts were paying off, with 10 Facebook accounts belonging to journalists being taken down in a single day in June 2019.

In South Africa, various actors contribute to the rampant online harassment of journalists. According to the CPJ, during the 2019 election, journalists had to contend with online harassment, cyber-bullying, toxic social media, fear and uncertainty over whether the digital threats could become physical attacks.[80] For instance, a case filed in the Equality Court, the South African National Editors Forum (SANEF) and five journalists provided evidence of how the Economic Freedom Fighters (EFF) had used social media to engage and rally hate against journalists who did not toe their line. According to SANEF chairperson Mahlatse Mahlalae, the EFF's trolling army had a chilling effect on free speech as the party endangered journalists and journalism.[81]

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72 Online trolls mustn't be allowed to intimidate journalists, https://theconversation.com/online-trolls-mustnt-be-allowed-to-intimidate-journalists-80531.

73 RSF publishes report on online harassment of journalists, https://rsf.org/en/news/rsf-publishes-report-online-harassment-journalists

74 Almost half of African journalists attacked on social media: report, https://www.africanews.com/2017/05/03/almost-half-of-afri-can-journalists-attacked-on-social-media-report//

75 Kenyan media group trolled by pro-ruling party activists https://rsf.org/en/news/kenyan-media-group-trolled-pro-ruling-party-activists

76 Kenyan influencers paid to take 'guerrilla warfare' online, https://www.bbc.com/news/world-africa-58474936

77 #34 - The Accidental Outing of Rwanda's Most Powerful Troll https://www.wnycstudios.org/podcasts/otm/articles/34-accidental-outing

78 "I don't care if they kill me today. I only care about how I'm going to be remembered", https://reutersinstitute.politics.ox-.ac.uk/news/i-dont-care-if-they-kill-me-today-i-only-care-about-how-im-going-be-remembered

79 In further bid to silence media, Somalia harassing journalists online: Amnesty, https://www.reuters.com/article/us-somalia-media-idUSKBN2071WD

80 Discredited, threatened, attacked: challenges of covering South Africa's election in the digital age, https://cpj.org/2019/07/south-africa-election-journalists-online-harassment-threats-doxx/

81 An army of trolls marches on in mindless violence – and nobody is stopping them, https://www.dailymaverick.co.za/article/2019-03-07-an-ar-my-of-trolls-marches-on-in-mindless-violence-and-nobody-is-stopping-them/

3.3.3   Online Harassment of Female Journalists

Online trolling of women journalists often takes the form of gendered and sexualised attacks[82] and, often involves body shaming. Worryingly, a global survey by UNESCO found in December 2020 that online attacks on women journalists appear to be increasing exponentially. Moreover, the UNESCO report demonstrated that online violence was also moving offline - with potentially deadly consequences.[83] Yet women journalists who experience abuse online rarely seek justice and often struggle to have their complaints taken seriously and properly investigated.[84]

This is partly because those who suffer online abuse do not report to authorities, thus, the full extent of online violence against female journalists remains unknown. However, there are also illustrative cases that indicate that this is a growing problem.

In 2019, Julius Malema, the leader of the EFF political party in South Africa, posted a journalist's phone number on Twitter. The journalist was then subjected to "an avalanche of racialised and sexist abuse, including rape and death threats".[85] The EFF was sued and the court found that the party had violated the electoral code by failing to "instruct and take reasonable steps to ensure that their supporters do not harass, intimidate, threaten or abuse journalists and especially women".[86] Similar incidents of online trolling and cyber harassment of female journalists have also been experienced in many countries across the continent. A 2021 UN Women report about online and ICT-facilitated violence against women established that women in politics and the media are at higher risk of suffering online violence due to their public personas and nature of work.[87]

In 2018, the Association of Media Women of Kenya (AMWIK) found that several Kenyan women in the media had fallen victim to smear campaigns usually spread through social media platforms, through hashtags, photos and video edited graphics used to show nude characters. Moreover, female television journalists were particularly prone to attracting online abuse and trolls, with the attacks "triggered by the women's way of dressing, their makeup, or something they did in line of duty."[88] Ugandan female journalists have also reported that online sexual harassment against them is rampant as is age shaming, character assassination and body shaming. The abuse had driven some female journalists off social media while it left others depressed.[89]

In Zimbabwe, female journalists, such as Ruvheneko Parirenyatwa and Samantha Musa (MisRed), have been bullied online.[90] In Somalia much of the online harassment, online threats, stalking and broadcasting private or personally identifiable information of journalists is directed at female journalists.[91] Research in southern Africa shows that abusive comments and hate speech are consistently being used to silence female journalists.[92] The UNESCO research notes that, in the long run, online harassment against female journalists hampers the achievement of a diversity of voices in the public sphere while also impacting negatively on the enjoyment of freedom of expression.

82 *Online-trolling-you-are-not-alone, https://www.ifj.org/actions/ifj-campaigns/online-trolling-you-are-not-alone.html*

83 *Online violence Against Women Journalists: A Global Snapshot of Incidence and Impacts, https://www.icfj.org/sites/default/files/2020-12/UNESCO%20Online%20Violence%20Against%20Women%20Journalists%20-%20A%20Global%20Snapshot%20Dec9pm.pdf*

84 *Women journalists in Uganda carry 'double burden' with online attacks and harassment, https://globalvoices.org/2020/05/15/women-journalists-in-uganda-carry-double-burden-with-online-attacks-and-harassment/*

85   *Act against trolling, sexual harassment and abuse, https://www.newframe.com/act-against-trolling-sexual-harassment-and-abuse/*

86 *EFF court losses mount as Karima Brown wins battle, but faces criticism of her own, https://www.dailymaverick.co.za/article/2019-06-06-eff-court-losses-mount-as-karima-brown-wins-battle-but-faces-criticism-of-her-own/*

87 *UN Women, Online and ICT facilitated violence against women and girls during COVID-19, https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/Brief-Online-and-ICT-facilitated-violence-against-women-and-girls-during-COVID-19-en.pdf*

88 *Online safety for women journalists: An update of the Survey on Women Journalists in Kenya, https://amwik.org/wp-content/uploads/2018/05/Updated-Baseline-Survey-Online-Violence.pdf*

89 *Women media practitioners decry social media harassment, https://www.monitor.co.ug/uganda/news/national/women-media-practitioners-decry-social-media-harassment-3513066*

90   *Misred, Zuva and Pokello become latest victims of cyber bullying, https://youthvillage.co.zw/technology/misred-zuva-and-pokello-become-latest-victims-of-cyber-bullying/*

91   *Facebook: Friend or foe to Somalia's press freedom, https://www.amnesty.org/en/latest/news/2020/05/facebook-friend-or-foe-to-somalia-press-freedom/*

92   *Understanding Online Gender-based Violence, https://genderlinks.org.za/wp-content/uploads/2022/05/Understanding-Online-GBV-in-Southern-Africa-FINAL.pdf*

3.3.4 Conflicts Exacerbating Journalists' Safety Challenges

The UN Plan of Action aims to create a free and safe environment for journalists and media workers, both in conflict and non-conflict situations, with a view to strengthening peace, democracy and development worldwide.[93] In conflict situations, the safety challenges that African journalists face are often grave, ranging from harassment to severe injuries to death. Indeed, conflicts remain a key concern for journalists' safety and media freedom in many African countries. Perhaps nowhere on the continent is this evidenced more than in Somalia, where journalists continue to get killed, making the Horn of Africa country arguably the unsafest in the world to work as a journalist. For six years running the country has held the ignoble number one position on the Global Impunity Index.

The months of September and October 2022 further brought home the dire conditions faced by journalists in Somalia. On September 30, 2022 Somali National Television (SNTV) journalist and camera operator Ahmed Mohamed Shukur was killed by a landmine explosion, while he was covering a counter-terrorist operation by security forces.[94] A month later, journalist Mohamed Isse Koonaa of Universal Somali TV was killed in a bomb blast while reporting on a terrorist attack that killed more than 120 people and injured up to 300.[95] Reuters photojournalist Feisal Omar and M24TVand Voice of America freelancer Abdukadir Mohamed Abdulle were seriously injured in the same incident.[96]

According to the National Union of Somali Journalists (NUSOJ), 54 journalists have been murdered over the past decade, while 50 others have been seriously injured over this period. Yet, the journalists' body notes, "barring one conviction earlier this year [2022], those responsible for these killings have never been brought to justice. Nor have those who ordered the assassinations."[97] As reported by IFEX, in addition to coping with reporting from a country prone to lethal militant attacks, as well as retaliatory measures by the terrorist group Al Shabaab, Somalia's media has to contend with restrictive policies, arbitrary arrests, and prolonged detentions. An example cited is the recent directive issued by the government in its attempt to fight militant attacks offline and online, which contains a blanket ban and suspension on what it describes as "dissemination of extremist and terrorist ideology."[98]

The situation in Somalia is grave yet it is not the only African country where journalists continue to be killed because of, or in the course of their work. Between January and September 2021, the African Freedom of Expression Exchange (AFEX) reported that 11 journalists had been killed across Sub-Saharan Africa "in an orgy of repression that had scores of other acts of violation against press freedom" - in Burkina Faso, Ethiopia, Ghana, Kenya, Nigeria, and Somalia.[99] The group stated that the culture of impunity was thriving because of various African governments' silence on crimes against journalists, coupled with the lack of thorough investigations.

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93 *OHCHR, UN Plan of Action on the Safety of Journalists and the Issue of Impunity, https://www.ohchr.org/en/safety-of-journalists/un-plan-action-safety-journalists-and-issue-impunity*

94 *Somali journalist Ahmed Mohamed Shukur killed while covering security operation, https://cpj.org/2022/10/somali-journalist-ahmed-mohamed-shukur-killed-while-covering-security-operation/*

95 *Somalia: Prominent TV journalist killed, two others injured in Mogadishu bombings, https://hornobserver.com/articles/1806/Somalia-Prominent-TV-journalist-killed-two-others-injured-in-Mogadishu-bombings*

96 *A dark month for journalists' safety and media freedom, CSOs push back against democratic rollbacks, https://ifex.org/a-dark-month-for-journalists-safety-and-media-freedom-csos-push-back-against-democratic-rollbacks/*

97 *The murder of Somalia's brave journalists must stop, https://www.aljazeera.com/opinions/2022/11/2/the-murder-of-somalias-brave-journalists-must-stop*

98 *Ibid.*

99 *AFEX, 11 journalists killed in 9 months on African continent, https://ifex.org/11-journalists-killed-in-9-months-on-african-continent/*

In April 2021, a terrorist group in Burkina Faso attacked and killed members of a convoy, including David Berian and Roberto Fraile, both Spanish journalists. The journalists were heading towards Pama national park near the border with Mali to shoot a documentary.[100] Burkina Faso is among the countries that have been affected by armed insecurity in the Sahel region of West Africa, which has become a hotbed for attacks on journalists. Journalists' safety has also equally been undermined in Mali, Burkina Faso, Niger, and northern Nigeria. In 2020 Burkinabe authorities barred journalists from entering camps for internally displaced persons.[101] In Mali, the April 8, 2021 kidnap of French reporter Olivier Dubois underlined the risks faced by journalists who operate outside of the capital Bamako, in a country where criticism of the military by journalists can lead to arrest and charges of demoralising troops.[102] Burkina Faso has amended its penal code to criminalise the dissemination of information on military operations or terrorism. Furthermore, in Burkina Faso, Niger, and Nigeria, journalists and independent content producers face occasional threats from non-state armed groups. [103]

Various other deaths of journalists on the continent have occurred in conflict-affected regions. This was the case with Congolese journalists Heritier Magayane, who worked with the state-owned Radio-Television Nationale Congolaise (RTNC) in North Kivu[104] Joël Musavuli Mumbere who worked with the of RTNC radio station;[105] and Barthelemy Kubanabandu Changamuka,[106] a journalist who worked with the Kitshanga Community Radio - all of whom were killed in 2021. The killing, also in 2021, of Somalia broadcast journalist Jamal Farah Adan, who used to report on political issues on social media platforms and contributed to programmes on local radio stations Radio Daljir, Radio Galkayo, and Radio Garowe, also happened in a conflict zone. Before his killing, the journalist reportedly stated on Facebook that he was receiving threats from the Al-Shabaab militant group, which is reported to have subsequently claimed responsibility for his killing.[107]

In Ethiopia, the conflict in the Tigray region has heightened the incidents of arrests and detention, including harassment of journalists reporting on the abuses of human rights related to conflicts in the country.[108] Yet, while non-state groups appear to be responsible for most of the attacks on journalists in conflict zones, research released in 2022 has shown that, overall, state actors are responsible for the majority of press freedom violations in sub-Saharan Africa.[109] Of the 116 press freedom violations documented across 29 sub-Saharan African countries between April and June of 2022, more than 75 percent involved abuses or overreach by police, security forces, regulatory bodies, courts, or other state authorities.[110]

A number of African countries are also imprisoning journalists, often on trumped up charges that are never prosecuted. Per the CPJ's 2021 'prison census and killed report', during that year at least 45 journalists were jailed for their work on Sub-Saharan Africa, around the same number as 2020.

100 *Two Spanish journalists, Irish activist killed in ambush in eastern Burkina Faso, https://www.theglobeandmail.com/world/article-spain-says-two-journalists-killed-after-ambush-on-antipoaching-patrol/*

101 *VOA, With Media Blocked, Burkina Faso's Displaced Denied a Voice, Journalists Say, https://www.voanews.com/a/press_freedom_media-blocked-burkina-fasos-displaced-denied-voice-journalists-say/6207147.html*

102 *French journalist Olivier Dubois about to complete 500th day as hostage in Mali, https://rsf.org/en/french-journalist-olivier-dubois-about-to-complete-500th-day-hostage-mali*

103 *https://ipi.media/nigerian-media-seek-to-cope-with-boko-haram-threat/,*
MFWA, The Media and the Fight Against Terrorism in West Africa : The Case of Burkina Faso, https://www.mfwa.org/the-media-in-the-face-of-the-fight-against-terrorism-in-west-africa-the-case-of-burkina-faso/

104 *DRC: Journalist killed in North Kivu Province, https://www.ifj.org/media-centre/news/detail/category/-press-releases/article/drc-journalist-killed-in-north-kivu-province.html*

105 *IPI, Joel Mumbere Musavuli, Democratic Republic of Congo, https://ipi.media/joel-mumbere-musavuli-democratic-republic-of-congo/*

106 *IFEX, DRC journalist Barthelemy Kubanabandu Changamuka murdered, https://ifex.org/drc-journalist-barthelemy-kubanabandu-changamuka-murdered/*

107 *IFJ, Somali journalist Jamal Farah Adan shot and killed, Al-Shabaab claims responsibility, https://cpj.org/2021/03/somali-journalist-jamal-farah-adan-shot-and-killed-al-shabaab-claims-responsibility/*

108 *AFEX, 11 journalists killed in Africa in less than nine months, AFEX demands a tough response from governments to end the impunity, https://www.africafex.org/attacks/11-journalists-killed-in-africa-in-less-than-nine-months-afex-demands-a-tough-response-from-governments-to-end-the-impunity*

109 *IPI pilot study: States are responsible for most press freedom violations in Africa,https://ipi.media/ipi-pilot-study-states-are-responsible-for-most-press-freedom-violations-in-africa/*

110 *RSF, The different facets of Africa, https://rsf.org/en/region/africa*

The worst jailers were Eritrea, which jailed 16 journalists, Ethiopia (9), Rwanda (7), Cameroon (6), Benin (2), Somalia (2), Nigeria (1), DR Congo (1), and the Central African Republic (1).[111] The countries that featured on the 2020 list included South Sudan, Mali, Burundi, and Uganda. Nigeria, the CAR and DR Congo were the new entrants to the 2021 list.

3.4 Media Independence

Across the continent, the media face several challenges that hinder its independence and professionalism. Many media houses are still reliant on government advertisements for survival, which greatly undermines their ability to be independent, professional and critical while reporting on government affairs.

In Benin, the government has influence on the appointment of the main heads of the state media and the High Authority for Broadcasting and Communication (HAAC). The country's major media houses are led by members of the ruling party or those in support of the current regime. The government favours media that gives coverage to public service bodies. The Benin Broadcasting and Television Office (ORTB) is often forced to relay government communication, while media that is close to the opposition are under strong pressure.

Since 2016, the HAAC has closed half a dozen media outlets, most of which are close to the opposition or critical of the government, like Radio Soleil FM, La Nouvelle Tribune or Sikka TV. The situation leads some journalists to self-censor, either out of fear that the government will suspend their media outlets or because they are beholden to government officials who award them advertising contracts. Likewise, the state issues "framework notes" to some media outlets, defining how they should cover some topics. In most cases, newspapers comply to keep the advertising contracts that bind them to state or private structures, compromising their editorial independence.

In Burkina Faso, official tax policy favours public media, with private media often being subject to unannounced checks by tax officials. However, media companies also receive assistance from the state during election periods, both materially and financially, to enable all the media involved to operate. The size of the advertising market is about 20 billion CFA francs (USD 30.5 million) with the state being the main advertiser, followed by mobile telephone operators. Advertising support is based on audience sizes although political positions remain a key factor.[112] While journalists are free to report on any issue, the enactment of anti-terrorism and information-related laws may push some media to apply self-censorship.[113] In addition, since the January 2022 coup, media freedom has waned. The Burkinabè public television is often used by the junta to broadcast its propaganda and enjoys no editorial independence.[114]

Côte d'Ivoire's media landscape is replete with political content. This is especially prominent in the print media. The result is highly polarised content, where there is the "green press" which is used to describe those close to the government, and the "blue press" which refers to those associated with President Laurent Gbagbo, who are critical of current president Alassane Ouattara.[115] Some newspapers close to Gbagbo have often been suspended and experienced decline in recent years although newspapers such as Le Temps and La Voie originale remain in circulation. More titles favourable to the current president have developed. The strong politicisation is not restricted to print media. The Ivorian Radio-Television (RTI) is hardly independent and is often seen as a government and ruling party mouth-piece. Furthermore, the newly established private television stations are not any better as many of them are owned mostly by people close to the government.[116]

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111 *Number of journalists behind bars reaches global high, https://cpj.org/reports/2021/12/number-of-journalists-behind-bars-reaches-global-high/*
112 *African Media Barometer, Burkina Faso 2019, Op. cit., pp 7-8.*
113 *Burkina: the controversial law on the disclosure of security information adopted, https://bit.ly/3DSe8Ej*
114 *Burkina: public service media accuse the authorities of undermining their independence, https://bit.ly/3hr5chW*
115 *ISFOD SARL, 2017. Etude diagnostique de la situation des médias : Presse, Presse en ligne, Radio et Télévision, entrave à la professionnalisation et mesures correctives, https://bit.ly/2Ai1RJI*
116 *Id.*

In eSwatini, there was a high degree of censorship of both the independent and state-owned media between 2020 and 2021 following the COVID-19 pandemic. Also, political protests have been used as an excuse to either limit public information shared with the media or to harass journalists in order to force them to toe the line. Further, the independence of The Times, eSwatini's largest and oldest daily newspaper, was brought into question after it was alleged that its editor, Martin Dlamini, had been engaged as King Mswati's part-time speech writer.[117]

The independence of Lesotho's media industry is compromised by the dominance by the government given its contribution of 80 percent of the advertising spend, compared to the country's small private sector. Consequently, the government exploits this advantage by deploying a carrot and stick strategy against critical media outlets. Such a situation promotes self-censorship in the media as outlets tend to toe the line for their own survival. Another big threat to media independence is the judiciary. For example, on November 15, 2021, a Lesotho Times court reporter, Mohalenyane Phakela, was barred from covering the courts by Chief Justice Sakoane Sakoane over stories published by the newspaper.[118]

In Malawi, there are growing concerns over the government's stringent control of the Malawi Broadcasting Corporation (MBC), which critics say is being treated as a mouthpiece of the ruling party instead of being allowed to play its public service role as a national broadcaster. Whereas the provisions of the Communications Act of 2016 guarantee the MBC's independence, these are often ignored by the government. In addition, there are concerns about political interference in the operations of the Malawi Communications Regulatory Authority (MACRA), which has at times banned live broadcasts and phone-in programmes in line with the government's efforts to curtail criticism.

In Mozambique, the Constitution and press law (18/91) guarantee editorial independence in the public media. However, there is a perception that journalists in those institutions are not allowed to operate independently by politicians. Analysis of coverage during elections and political programming in the public media, especially the state-owned television and radio stations as well as newspapers, shows bias towards the ruling Mozambique Liberation Front (FRELIMO) party. The restrictive media laws and lack of security guarantees also promote self-censorship in the privately owned media.

In Namibia, there is a thriving private media that is critical of the government, a phenomenon which does not show itself in the state-run media like the Namibian Broadcasting Corporation (NBC), Namibia Press Agency (Nampa) and the New Era. However, there have been notable cases where state institutions, particularly State House, would invite the NBC to cover an event, and instruct other newspapers to source information from the public broadcaster.

In Somalia, media ownership greatly undermines independent programming and news publication. Media houses are often driven by personal loyalty, political and clan affiliations of journalists and media houses. In addition, many media houses do not distinguish between journalistic content and paid-for content, and sometimes publish promotional material as news or programmes. Recently, heightened political tensions arising from the delayed elections in Somalia and the heated political climate across the country in general, gave rise to allegations that government officials were compromising the media. This affected the ability of journalists and media houses to freely report on sensitive stories and topics that were deemed unfavourable to government authorities, resulting in self-censorship. [119]

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[117] https://www.facebook.com/436326986822300/photos/a.806576383130690/1225839331204391/?type=3

[118] The Guardian, (2016), (Maka Angola) available at; https://www.theguardian.com/world/2016/aug/19/angola-passes-laws-to-crack-down-on-press-and-social-media

[119] We Live in Perpetual Fear
https://www.amnesty.org/en/wp-content/uploads/2021/05/AFR5214422020ENGLISH.pdf

In Zimbabwe, despite court rulings ordering the state-controlled Zimbabwe Broadcasting Corporation (ZBC) to operate independently, it continues to be partisan, with little attention being given to opposition parties. A hallmark of the Zimbabwean media scene is that it is highly polarised, with the state media decidedly against the opposition and the private media unashamedly anti-government. Government officials tend to give interviews to the uncritical state media and shut out private media. Instead of playing the normative watchdog role, public media have literally become the mouthpieces of the government and are often very hostile to the opposition.

3.5   Internet Access and Affordability

Within the last decade, Africa has experienced exponential growth of internet access from 13% in 2014 to 28% in 2022, thanks to mobile internet connectivity.[120] Despite this growth, internet access and affordability is still a major challenge for most, especially the rural poor, women, and persons with disabilities.

According to the GSMA's State of Mobile Internet Connectivity 2021 report,[121] Sub-Saharan Africa has the largest coverage gap (those living in areas without mobile broadband coverage), which stands at 19%, compared to the global gap of 6%. This is because, while the internet has become more accessible, particularly on mobile phones, costs are still high and unaffordable to many.[122] As a result, the majority of the people in the region are kept offline.

3.5.1   Adoption of Digital Taxation

One of the biggest concerns has been the use of digital taxation to undermine citizens' access to and use of digital technologies to hold governments to account. Many governments have been eager to increase revenues from the telecommunications sector, and particularly, from over-the-top (OTT) services, which they claim are eating into the revenues of licensed telecommunication operators. Several other governments have slapped taxes on mobile phone handsets and other gadgets.[123] These costs are usually passed on to consumers, thereby raising the cost of owning and using a mobile phone and accessing the internet.[124]

In 2016, the Zimbabwean government increased mobile data prices overnight by 500% in a move that was seen as an attempt to stifle citizen activism and dissent around the #ThisFlag movement.[125] Mobile networks were also ordered to suspend data bundle promotions[126] until further notice. In January 2017, the government increased the cost of the data tariffs by a further 2,500%.[127] More increases were to be experienced in August 2019, when NetOne, a telecom company increased the cost of data bundles by 300%.[128] Prior to this, several operators had increased the cost of bundles in April 2019, citing the cost of doing business.[129] Access to the internet in Zimbabwe is further limited by the country's economic crisis,[130] with internet users facing rising inflation and costs and the majority of the poor rural communities struggling to access the internet and other telecommunications services.

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120 *State of Mobile Internet Connectivity 2021 https://www.gsma.com/r/wp-content/uploads/2021/09/The-State-of-Mobile-Internet-Connectivity-Report-2021.pdf*

121 *Ibid*

122 *Connecting Africa through Broadband https://www.broadbandcommission.org/Documents/working-groups/DigitalMoonshotforAfrica_Report.pdf*

123 *Towards an Accessible and Affordable Internet in Africa https://cipesa.org/?wpfb_dl=482*

124 *Digital Inclusion and Mobile Sector Taxation https://www.gsma.com/mobilefordevelopment/wp-content/up-loads/2015/06/Digital-Inclusion-Mobile-Sector-Taxation-2015.pdf*

125 *Zimbabwe data prices hiked by up to 500% to curb social media activism and dissent https://mg.co.za/article/2016-08-05-zimbabwe-da-ta-price-hiked-up-by-up-to-500-to-curb-social-media-activism-and-dissent/*

126 *Mobile Operators Suspend Data Bundles Promotions https://www.newsday.co.zw/2016/08/mobile-operators-suspend-data-bundles-promotions/*

127 *Uproar Over Data Tariff Rise https://www.newsday.co.zw/2017/01/uproar-data-tariff-rise/*

128 *Hard-pressed Zim telcos hike data bundle tariffs, https://itweb.africa/content/KzQenMjVBaEMZd2r*

129 *Data Tariffs Soar As Crisis Bites https://allafrica.com/stories/201904280094.html*

130 *Zimbabwe Freedom on the Net 2021 https://freedomhouse.org/country/zimbabwe/freedom-net/2021*

In 2018, the Ugandan government passed an amendment to the Excise Duty Act, introducing a mandatory tax of Uganda Shillings (UGX) 200 (USD 0.05)[131] per user per day for access to OTT services such as WhatsApp, Facebook, and Twitter. In the same amendment, a 1% levy was imposed on all mobile money cash withdrawal transactions, which caused public outcry and prompted parliament to reduce the levy to 0.5%. In a letter to the finance minister in March 2018, President Yoweri Museveni wrote that the taxes were necessary as the country needed resources to cope with the consequences of "olugambo on social media (opinions, prejudices, insults, friendly chats) and advertisements by Google."[132]

At the time the government filed proposals to introduce the OTT tax, the Ministry of Finance projected that up to UGX 486 billion (USD 131 million) could be collected annually by 2022. However, by the end of July 2018, the projections had been revised downwards[133] to USD 78 million annually. In July 2019, one year after the introduction of the tax, the revenue body reported[134] that it had experienced an annual shortfall of 83%, having collected only USD 13.5 million. In the second year, the social media tax fetched a paltry USD 16.3 million.[135]

In 2018, the Alliance for Affordable Internet (A4AI) showed that the social media tax was likely going to push basic connectivity out of reach for many including the underemployed and unemployed youth who make up over 78% of the population.[136] According to a 2018 nation-wide survey by the National Information Technology Authority of Uganda (NITA-U), 76.6% of respondents named high cost as the main reason why their use of the internet was limited.[137] The 2020 Affordability Report indicated that Uganda's data costs were higher than the African average, with 1 GB of data costing up to 8.07% of an average Ugandan's monthly income compared to Sub-Saharan Africa's average of 3.1%.[138] Uganda abandoned the OTT tax in July 2021 and replaced it with a direct levy of 12% on the net price of internet data.[139]

Similarly, in 2018 the Zambia government announced the introduction of a daily levy of 30 Ngwee (USD 0.03) on internet voice calls. In a press statement issued after a cabinet meeting on August 12, 2018, the government spokesperson said internet calls through platforms such as Viber, WhatsApp and Skype "threaten the telecommunications industry and jobs" in licenced telecommunication companies such as Zamtel, Airtel and MTN."[140] However, amidst widespread criticism from civil society and the media, the government abandoned the plans to implement the tax.

In Mozambique, three key local Internet Service Providers (ISPs) hiked prices for internet access bundles by about 75% on October 26, 2016. This followed a July 29, 2016 resolution by the Mozambique National Communication Institute (INCM), to cut subsidies for Mozambican ISPs (which included financial support for data service, text messages, and voice) by 75%, with an aim to "uphold an environment of unbiased regulation that ensures consolidation and [healthy] development in the competition between telecommunications operators, and safeguards the interests of consumers."[141]

131 Uganda Introduces Social Media Tax Despite Criticism https://www.aljazeera.com/economy/2018/7/1/uganda-introduces-social-media-tax-despite-criticism

132 Mseven slaps tax on social media users https://www.monitor.co.ug/News/National/Museveni-taxes-social-media-users-Twitter-Skype/688334-4366608-oilivjz/index.html

133 We have got Shs 7bn in OTT Mobile Money Taxes https://observer.ug/news/headlines/58213-minister-we-have-got-shs-7bn-in-ott-mobile-money-taxes.html

134 URA Revenue Performance Report FY 2018/19 https://www.ura.go.ug/Resources/webuploads/GNRART/Revenue%20Performance%20Report%20FY%202018-19.pdf

135 URA Annual Databook 2019-20 https://www.ura.go.ug/openFile.do?path=//webupload//up-load//download//staticContent//TOPMENU//924//10340_URA_Annual_databook_2019-20_Final.pdf

136 Uganda new Social Media Tax will push basic connectivity further out of reach for millions https://cipesa.org/2018/06/uganda-new-social-me-dia-tax-will-push-basic-connectivity-further-out-of-reach-for-millions/

137 National IT Survey 2018 https://www.nita.go.ug/sites/default/files/publications/National%20IT%20Survey%20April%2010th.pdf

138 Internet Affordability Internet 2020 https://a4ai.org/affordability-report/report/2020/

139 Uganda Abandons Social Media Tax But Slaps New Levy on Internet Data, https://cipesa.org/2021/07/uganda-abandons-social-me-dia-tax-but-slaps-new-levy-on-internet-data/

140 Zambia slaps a 30 ngwee a day tariff on internet phone calls https://www.lusakatimes.com/2018/08/13/zambia-slaps-a-30-ngwee-a-day-tariff-on-internet-phone-calls/

141 2016 resolution (19/CA/INCM/2015) http://www.incm.gov.mz/

3.5.2 Internet Disruptions Including Internet Shutdowns

Internet disruptions have recently become common in several African countries. Governments have sometimes shut down or restricted the internet and access to social media platforms in what appears to be attempts to limit or control conversations online and prevent mobilisation for potential pro-democracy protests.[142] The disruptions have mostly been initiated around election times, public protests, and during national exams. In several cases, security agencies work with national communications regulators to order the disruption, mostly citing national security or public order considerations, and referencing the regulator's powers to order service providers to interrupt services.[143]

Internet shutdowns are not a common practice in Benin. However, on April 28, 2019, the day of the legislative elections and for the first time in the country, the internet was shut down all day long, hindering communications locally and internationally.

Burkina Faso had 4.59 million internet users in January 2020. Nevertheless, network coverage in the country is unevenly distributed with a huge digital divide between the main cities like Ouagadougou, Bobo-Dioulasso and Koudougou and the regions furthest from urban centres. To this unequal coverage is added the multiplication of network disruptions. The day before the January 2022 coup led by Lt. Paul-Henri Damiba,[144] the internet was shut down for nearly 35 hours on grounds of "national security". The blockage was effected as information about the detention of the ex-president by the putschists began to spread. This was the third shutdown in just a few months, as the government admitted having ordered an internet shutdown that lasted 96 hours on November 22, 2021, mainly for "security reasons".[145]

In Burundi, the Regulatory Agency for Telecommunications (ARCT) in April 2015 instructed all telecommunication operators providing mobile internet to block access to social media platforms such as Facebook, Twitter, WhatsApp and Telegram for 10 days. This was intended to counter mobilisation of protesters during the political crisis around the elections of 2015.[146] The shutdown of access to social media platforms occurred again on the general election day, May 20, 2020. That shutdown lasted around 18 hours, according to the Facebook transparency report.[147]

To make the internet more accessible, the Malian authorities announced in 2021 their intention to bring a fourth mobile operator into the national market. Paradoxically, these efforts have not prevented the authorities from restricting access through occasional cuts or disruptions of social networks. Social media and messaging were partially blocked in Mali during July 10-15, 2020 as protesters agitated for political reforms.[148] Earlier, an internet shutdown had been reported between August 15 and 16, 2018 as the country conducted presidential elections.[149] Disrupting communication networks in Mali is, however, not the preserve of state authorities. In July 2021, armed groups around Timbuktu attacked the communication infrastructure of the country's two main telecommunications providers, seriously disrupting internet and telephone services in large areas of the country.

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142 Mapping Trends in Government Internet Controls 1999-2019 https://cipesa.org/?wpfb_dl=307

143 Mapping Trends of Government Internet Controls 1999-2019 https://cipesa.org/?wpfb_dl=307

144 https://www.aljazeera.com/news/2022/1/25/burkina-faso-coup-leader-paul-henri-sandaogo-damiba

145 Burkina Faso : Que s'est-il passé encore avec l'internet mobile ? https://bit.ly/3DOeBYg

146 Update on the State of Internet Freedom in Burundi https://cipesa.org/2015/06/update-on-the-state-of-internet-freedom-in-burundi/

147 Internet disruptions https://transparency.facebook.com/internet-disruptions

148 Social media restricted in Mali amid protests against president, https://bit.ly/3DOgKDi

149 Mali elections marred by internet disruptions, https://bit.ly/3NNJWPq

In January 2021, the Ugandan government ordered a complete shutdown of the internet on the eve of the general elections.[150] This was not the first time the government had ordered such a shutdown. In 2016, the government ordered the shutdown of social media on the eve of the presidential elections voting day, citing "national security." The same happened during the inauguration in May 2016, affecting social media platforms including Facebook, WhatsApp, Twitter and mobile money transfer services.[151]

In August 2021, authorities in Zambia intentionally blocked access to social media platforms — including WhatsApp, Twitter, Instagram, and Facebook — during the country's presidential election on August 12.[152] The shutdown severely undermined people's ability to communicate and receive information through the course of the election, while also impacting their lives, work, education, and relationships.[153]

In the lead-up to the October 28, 2020 presidential elections, authorities in Tanzania are reported to have taken steps to infringe on citizens' digital rights. The Tanzania Communication Regulatory Authority (TCRA) directed[154] telecom and internet service providers to install internet filtering equipment from the Israeli firm Allot,[155] and then disrupt[156] social media platforms including Twitter, WhatsApp, and Telegram one day before the election.

In January 2019, Zimbabwe ordered a countrywide internet shutdown following massive protests against a 150% fuel price hike.[157] President Emerson Mnangagwa justified the shutdown on Twitter stating that: "social networks (were) being used to plan and incite disorder and to spread misinformation leading to violence.[158] Earlier in July 2016, the government had ordered telecom companies and ISPs to block access to social media platforms, as a way to disrupt online mobilising and strikes organised by the #ThisFlag social movement.

Authorities in Lesotho tried but failed to censor social media networks including Facebook and Twitter in the lead up to the country's July 2017 general elections, after several ISPs and the Lesotho Communications Authority refused to cooperate in disrupting the communication networks.[159]

Internet shutdowns have been condemned across the board with regional bodies such as the United Nations and African Commission on Human and Peoples' Rights (ACHPR) passing resolutions calling upon states to desist from the practice. In June 2016, the United Nations passed a non-binding resolution on "the promotion, protection, and enjoyment of human rights on the Internet."[160] The resolution specifically condemns measures to prevent or disrupt access, calls on all states to refrain from and cease such measures. The resolution further recognises the importance of access to information and privacy online for the realisation of the right to freedom of expression and to hold opinions without interference.[161]

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[150] 100 hours in the dark how an election internet blackout hit poor Ugandans https://www.reuters.com/article/us-uganda-internet-rights-trf-n/100-hours-in-the-dark-how-an-election-internet-blackout-hit-poor-ugandans-idUSKBN29P1V8

[151] Social media blocked in Uganda ahead of president Museveni inauguration https://advox.globalvoices.org/2016/05/11/social-me-dia-blocked-in-uganda-ahead-of-president-musevenis-inauguration/

[152] As contentious Elections Nears Rights Groups urge Zambia to Keep it on https://www.accessnow.org/as-contentious-elec-tion-nears-rights-groups-urge-zambia-to-keepiton/

[153] Shutdown in Zambia on Election Day how it affected peoples' lives and well-being https://www.accessnow.org/shutdown-in-zambia-on-elec-tion-day-how-it-affected-peoples-lives-and-wellbeing/

[154] Tanzania votes government forces telcos escalate censorship https://www.accessnow.org/tanzania-votes-government-forces-telcos-escalate-censorship/

[155] Allot Communications https://www.allot.com/

[156] Tanzania has allegedly blocked internet ahead of elections https://techweez.com/2020/10/27/tanzania-has-allegedly-blocked-internet-and-ahead-of-election/

[157] First Total Internet Shutdown in Zimbabwe https://bulawayo24.com/index-id-news-sc-national-byo-153712.html

[158] President Mnangagwa Justifies internet shutdown although believes in freedom of expression https://www.techzim.co.zw/2019/01/president-mnangagwa-justi-fies-internet-shut-down-although-he-deeply-believes-in-freedom-of-speech-and-expression/

[159] New report analyses internet censorship during Lesotho 2017 general elections https://www.opentech.fund/news/new-report-analyzes-inter-net-censorship-during-lesothos-2017-general-elections/

[160] https://www.article19.org/data/files/Internet_Statement_Adopted.pdf

[161] https://www.osce.org/fom/250656

In November 2016, the ACHPR adopted resolution ACHPR/Res. 362 (LIX) 2016 in Banjul, the Gambia, reaffirming the fundamental right to freedom of information and expression enshrined under article 9 of the African Charter on Human and People's Rights and in other international human rights instruments and recognising the role of the internet in advancing human and people's rights in Africa.[162] This resolution came at a critical time, when the region was witnessing regular internet shutdowns which impacted directly on freedom of expression and access to information.

In spite of those global and continental condemnations, internet shutdowns continue unabated around Africa. In 2021, for instance, there were at least 19 recorded internet shutdown incidents in 12 African countries: Burkina Faso, Chad, Congo, Eswatini, Ethiopia, Gabon, Niger, Nigeria, Senegal, South Sudan, Uganda, and Zambia.[163]

Internet shutdowns harm both economic growth and people's rights to freedom of expression and access to information. During such communication disruptions media houses and journalists that rely on technology are not in position to function properly in terms of sourcing, compiling and transmitting news from distant locations.

3.6 Media Self Regulation

According to UNESCO's Media Development Indicators, the best guarantee for ensuring high ethical and professional standards in journalism is voluntary self-regulation within and among news organisations. Effective self-regulation is a matter of both form and culture. National media cultures may have the apparatus of self-regulation – codes of ethics, ombudsmen, complaints commissions, the printing or broadcasting of retractions and corrections, among others – but these may be ineffective without a prevailing culture of public and peer scrutiny.[164]

There are several unions and professional organisations of journalists in Benin, including the Union of Media Professionals of Benin (UPMB), which is the best known and most representative. These institutions are meant to defend and protect the rights of journalists through actions to denounce violations, advocacy with public authorities and capacity building for journalists. In 1999, the Observatory of Deontology and Ethics in the Media (ODEM), a self-regulatory body bringing together journalists and media players, was created. The ODEM has implemented a code of conduct and ethics specifying the rights and duties of journalists, and ensures the dissemination and compliance with the provisions of this code. It operates as a court of peers and enjoys great legitimacy.[165]

However, unions and press organisations lack transparency and are dependent on the government for funding.[166] For instance, they unexplainably showed great reluctance in mobilising for the release of journalist Ignace Sossou in 2020. In terms of the fight against disinformation, the ODEM, and the High Authority for Audiovisual and Communication (HAAC), a regulatory body, can act to repress the dissemination of false news, and have complaint management mechanisms.[167] Accordingly, the media are held responsible for the content they broadcast. In the event of an offence through the press, journalists are "punished as main perpetrators", according to the Information and Communication Code. If the authors are not identified, the publication manager or editor must be held accountable.

162 https://www.achpr.org/sessions/resolutions?id=374

163 Internet shutdowns in 2021 report: resistance in the face of blackouts in Africahttps://www.accessnow.org/internet-shutdowns-africa-keepiton-2021/

164 UNESCO (2018) Media Development Indicators

165 Observatoire de la Déontologie et de l'Ethique dans les Médias Bénin, https://bit.ly/3UlbPRs

166 African Media Barometer Benin 2021, P. 52, https://bit.ly/3FWA1VI

167 id.

The Association of Journalists of Burkina (AJB) developed a Charter of Journalists of Burkina Faso in 1991. Since 1995, the Burkinabè media has been regulated by the Superior Council of Information (CSC), which monitors media professionalism including ensuring the proper application of the Information Code. The CSC has the power to suspend media houses and journalists. Its sanctions have sometimes been considered abusive, like the suspension in March 2021 of two radio stations of the media group OMEGA, which remained off-air for five days, after it broadcast information linked to a terrorist attack which was deemed false by the CSC. The Observatory of Burkina Faso Media (OBM) is also a self-regulatory body, but it has not been functioning for a number of years. Journalists and other media professionals in Burkina Faso are organised into unions or professional associations, which act as safeguards for freedom of information. The Autonomous Union of Information and Culture Workers (SYNATIC) is the only union that represents both public and private media workers.

In Côte d'Ivoire, there are dynamic associations of journalists and publishers. The National Union of Journalists of Côte d'Ivoire (UNJCI) is the umbrella organisation of journalists, although there are others like the Grouping of Press Publishers of Côte d'Ivoire (GEPCI), the National Union of Press Professionals of Côte d'Ivoire (SYNAPPCI), the Forum of Publication Directors of Côte d'Ivoire (FORDPCI), the Union of local radio stations in Côte d'Ivoire (URPCI), and the Network of Online Press Professionals in Côte d'Ivoire (REPPRELCI). The Ivory Coast Digital Media Observatory (OMENCI) was set up by the network of online press professionals, Le Réseau des Professionnels de la Presse en Ligne de Côte d'Ivoire (REPPRELCI), to self-regulate online media.[168]

The Observatory for Press Freedom, Ethics and Deontology (OLPED), which celebrated its 25th anniversary in September 2020, is a tribunal of peers which is part of the media regulatory bodies with the responsibility of promoting and defending ethics, mediating in particular when journalists harm citizens and promoting and defending press freedom.[169] The OLPED, by monitoring the media, has taken more than 10,000 decisions on the ethical and professional faults of Ivorian journalists over the past 20 years.[170]

Like in many countries across the continent, media self-regulation is a relatively new concept in Ethiopia. Prior to the establishment of the Ethiopian Media Council in 2016, the media sector was regulated by the government. Although the Council has been functional for over five years, it has been challenging to enforce codes of conduct and accountability due to various reasons including lack of consensus between its members, weak institutional structure, and dysfunctional leadership.[171]

While journalistic and media associations exist in the country, such as the Ethiopian Free Press Journalists Association and the Ethiopian Journalist Association, they have not been able to protect the interest of journalists as most are aligned with government interests, are inactive or do not see eye to eye on major issues. Furthermore, the establishment of journalistic associations like the Editors' Guild of Ethiopia and the Ethiopian Media Professionals Association has only been made possible in the last few years following the amendment of the civil society law. Journalistic associations in the country do not have a consistent track record of working on a common standard of ethics and professionalism and lack legitimacy and acceptance by the larger journalistic community.

168   OMENCI, https://www.repprelci.ci/services/omenci/
169   OLPED revises the law on access to information for transparent and responsible governance, https://bit.ly/3Tdokgs
170   Ivory Coast: ethics and professional conduct of journalists singled out, https://bit.ly/3NQ6nU5
171   Pathways to operationalize media self-regulation in Ethiopia, 2021

In Malawi, the Media Council of Malawi (MCM) that was set up in 2020 with the help of MISA Malawi has been filling a big void in the protection of journalists in the absence of vibrant unions. The MCM provides a platform for people aggrieved by stories published by the media to lodge complaints. The council handles cases where journalists are accused of unethical conduct to the satisfaction of all the parties. Instead of routinely arresting journalists for alleged transgressions, authorities are continuously encouraged to use the MCM platform to get redress whenever they feel aggrieved by content in the media.

In Rwanda, journalists are free to join independent trade unions and they often do exercise this right.[172] . Law N°02/2013 on regulating media (Media law) adopted in Rwanda on March 11, 2013 provides some safeguards for freedom of the press. Article 4 of the law provides for a self-regulatory mechanism by setting up an independent commission with powers to deal with violation of journalists' rights (article 15). The country also has several media associations, including the Association of Rwandan Journalists (ARJ)[173] which defends the rights of journalists but does not offer social security during unemployment or health and other insurance.[174] Such benefits depend on the individual media houses, although on the whole, Rwandan journalists are poorly paid.[175] There are also professional associations formed by journalists to mainly promote their area of coverage and other interests such as access to information, and coverage on the environment and science.[176]

In Somalia, there are many registered media associations at the national and federal states level,[177] including the National Union of Somali Journalists (NUSOJ) founded in 2002, the Somaliland Journalists Association (SOLJA) established in 2012, and the Media Association of Puntland (MAP) founded in 2009. There are other media umbrellas and organisations involved in the protection of the rights of journalists and promoting professional development, including the Somali Independent Media Houses Association (SIMHA), the Women in Media Initiative Somalia (WIMISOM), the Somali Women Journalists (SWJ), the Somali Media Association (SOMA), the Federation of Somali Journalists (FESOJ) and the Somali Journalists Syndicate (SJS). However, the operational capacity and ability of these associations to offer effective support to journalists is limited due to various factors, and is sometimes worsened by poor collaboration and competition among the associations for meagre resources.

Tanzania is one of the few countries that has implemented a successful media self-regulatory mechanism, albeit with some challenges. In 1998 journalists organised themselves and established the Media Council of Tanzania (MCT). This body acts as a media self-regulatory body/watchdog that also coordinates training programmes, seminars and workshops for journalists.[178] The country also has several vibrant journalists' unions and professional bodies that cater for specific needs based on gender, specialisation, and professionalism. The Union of Tanzania Press Clubs (UTPC) was created to protect freelance journalists and correspondents and is very active throughout the country. Professional bodies include the Tanzania Media Women's Association (TAMWA) and the Tanzania Editors Forum (TEF). Other associations include the Journalists' Environmental Association of Tanzania (JET) and the Media Institute of Southern Africa (MISA) Tanzania, which anyone can join.

172 Bent Norby Bonde, Jean-Pierre Uwimana, Francis Sowa, Glenn O Neil, ' The state of Media Freedom in Rwanda', 2015, https://www.google.com/search?client=fire-fox-b-d&q=the+state+of+media+freedom+in+Rwanda+report+2015 (Accessed on 13 April 2022).

173 Rwanda Journalists Association, https://twitter.com/arj_rwanda?lang=en (Accessed on 13 April 2022).

174 Bent Norby Bonde, Jean-Pierre Uwimana, Francis Sowa, Glenn O Neil, ' The state of Media Freedom in Rwanda', 2015, https://www.google.com/search?client=fire-fox-b-d&q=the+state+of+media+freedom+in+Rwanda+report+2015 (Accessed on 13 April 2022).

175 Democracy in Africa,' Journalists' pay conditions in Rwanda', http://democracyinafrica.org/making-press-count-pay/ (Accessed on 13 April 2022).

176 Rwanda Journalists for Sustainable Development, https://twitter.com/rwandajsd (Accessed on 13 April 2022)

177 https://www.eutm-somalia.eu/wp-content/uploads/2018/05/EJC-Media-Landscape-Somalia.pdf

178 Situation of Media in Tanzania Mainland https://www.usaid.gov/sites/default/files/documents/MEDIA_SITUATION_IN_TANZANIA_2020.pdf

All journalism unions and professional bodies were formed to protect specific journalists' needs and the profession. The primary role is to promote journalists' safety and security and professional development. The UTPC protects the rights of all regional journalists who are mostly unemployed and work as correspondents and freelancers, while TAMWA takes care of women journalists' welfare and safety, and TEF protects editors' rights and welfare. The other organisations cut across all journalists' professional development needs.

The government has, however, enacted several laws that undermine the concept of self-regulation by concentrating powers in the hands of government-appointed officials. Under the Media Services Act, 2016, the government now also holds de facto control over two regulatory bodies: the Journalists Accreditation Board and the Independent Media Council, which is responsible for upholding ethical and professional standards. All practising journalists in Tanzania must obtain Board accreditation and be members of the Media Council. Although both bodies are officially independent, their board members are appointed by and are accountable to the minister of information.[179]

In Uganda, attempts at self-regulation have been weak, even though there are several professional journalists' associations and unions in the country. Their effectiveness has been a subject of concern although they continue to pursue their goals, demonstrating various degrees of success. In early 2020, the Foreign Correspondents Association of Uganda (FCAU) called for the release of journalist Moses Bwayo who had been arrested while filming musician turned opposition leader Robert Kyagulanyi. The Uganda Journalists Association (UJA) has actively spoken out and organised against state brutality towards journalists. In October 2019, for example, it organised a total blackout on all police activities following a sustained attack on journalists covering a Makerere University student strike. And, in May 2019, the Uganda Parliamentary Press Association (UPPA) lobbied Parliament to pay journalists who cover the legislature an allowance. All these are efforts to facilitate journalism better.

Besides UJA, UPPA and FCAU, other professional bodies for journalists in Uganda include the Uganda Editors' Guild, the National Association of Broadcasters (NAB), the Uganda Media Sector Working Group as well as the Uganda Sports Press Association.[180] These have often held elections to fill various offices. They also participate in industry activities. The sheer number of associations for journalists has often been interpreted as lack of coordination and coalition around core issues that affect journalism specifically.

In eSwatini, the Swaziland Media Complaints Commission (MCC) – an independent, self regulatory body launched in 2011 by media practitioners - is responsible for ensuring the implementation of the Swaziland Journalists Code of Ethics and providing consumers of print media with an opportunity for redress outside of the courts, where they feel they have been wronged by journalists' reports.[181] The country also has media associations set up to promote professionalism and the rights of journalists. These entities include the recently formed Swaziland Media Consortium (SMC) made up of eight media bodies.[182] The effectiveness of civil society, including unions representing journalists, has, however, been curtailed by the tough political environment in eSwatini. There have also been calls to strengthen the capacity of existing media bodies so that they can effectively represent the interests of journalists and offer media workers protection in light of the clampdowns witnessed in the last two years.

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179 Tanzania press freedom plunges into unprecedented crisis https://ipi.media/tanzania-press-freedom-plunges-into-unprecedented-crisis/

180   There is not much online about these associations but their elections often make it into the news. These links provide some insights. https://ugandaradionetwork.com/story/mulondo-voted-new-uppa-president; https://www.independent.co.ug/all-uganda-journalism-association-leaders-elected-unopposed/; https://www.newvision.co.ug/news/1105118/uspa-polls-city-hall; ;https://www.newvision.co.ug/news/1437099/uspa-elections-november; https://kawowo.com/2018/11/24/kanyo-mozi-takes-uganda-sports-press-association-top-seat-for-2018-2020-tenure/

181   The Africa Media Barometer: eSwatini https://library.fes.de/pdf-files/bueros/africa-media/16700.pdf

182   Africa Media Barometer: eSwatini https://library.fes.de/pdf-files/bueros/africa-media/16700.pdf

In Zambia, journalists met in May 2019 under the auspices of the Media Liaison Committee (MLC) and unanimously resolved to adopt a statutory self-regulatory mechanism.[183] The resolution was influenced by the government's threat that if journalists did not regulate themselves, the state would formulate a law to regulate them. The MLC, therefore, constituted a Technical Working Group (TWG) led by chairperson, Ernest Chanda, on media regulation, which is pursuing the goal of self-regulation for Zambian media.[184] Although voluntary regulation was the recommended option, Zambian journalists acknowledged that such a system has failed them twice before and opted to pursue a hybrid model, that is, a combination of various forms of self-regulation — picking the best from each and putting them together. It was also resolved that the media would form a professional body to be called the Zambia Media Council (ZAMEC) — a process that led to the crafting of the Zambia Media Council Bill 2019. The lobbying continues and represents the united front by Zambian journalists in support of self-regulation of the local media industry.[185]

3.7 Surveillance and Privacy of Online Communication

The right to privacy is enshrined in various international human rights instruments. These include the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Article 12 of the UDHR provides that: "No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

Article 17 of the ICCPR provides that: "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

In June 2014, the African Union adopted the African Union Convention on Cybersecurity and Personal Data Protection (also referred to as the Malabo Convention), making it the first Pan-African instrument on privacy and personal data protection. Article 8 of the convention calls upon state parties to commit to establish a "legal framework aimed at strengthening fundamental rights and public freedoms, particularly the protection of physical data, and punish any violation of privacy without prejudice to the principle of free flow of personal data." The convention also outlines internationally recognised principles in personal data collection, storage, and processing.

In addition, Principle 41 of African Commission on Human and Peoples' Rights (ACHPR) Declaration on Principles of Freedom of Expression and Access to Information in Africa of 2019 provides that states shall only engage in targeted communication surveillance that is authorised by law, that conforms with international human rights law and standards, and that is premised on specific and reasonable suspicion that a serious crime has been or is being carried out or for any other legitimate aim."[186]

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183 *Zambian Journalists opt for self regulation backed by law https://www.lusakatimes.com/2019/05/11/zambian-journalists-opt-for-self-regulation-backed-by-law/*

184 *Ibid*

185 *Ibid*

186 *Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019, https://www.achpr.org/public/Document/file/English/Declaration%20of%20Principles%20on%20Freedom%20of%20Expression_ENG_2019.pdf*

Over the years, several African countries have enacted laws and adopted policies that adversely impact privacy, particularly those that facilitate surveillance and the collection of biometric data, as well as those that prohibit the use of encryption. Although some of the laws contain provisions that criminalise illegal surveillance and provide some safeguards regarding state surveillance, many of them contain retrogressive provisions that leave scope for intrusion, including enabling state surveillance with limited safeguards.[187] This trend has facilitated increased state surveillance across the continent and is accelerating interference with various rights and freedoms, including those of the media.

As the following subsections show, some of the laws enacted by some African countries have been detrimental to the freedom and safety of journalists and independent content producers, as they have undermined their privacy, ability to communicate anonymously with sources, and to access information. Further, the laws have legalised surveillance and interception of communications, placed undue limitations on the right to privacy and anonymous communications, and led to a rise in surveillance and monitoring of journalistic activities.

3.7.1 Legalising Surveillance and Interception of Communication

Several countries have adopted laws to legitimise their surveillance practices by legalising interception by state agencies and requiring its facilitation by communication intermediaries such as telecommunication companies and ISPs. Ordinarily, the fact of having these laws and policies would not be a major concern, as governments all over the world have a legitimate interest in conducting lawful surveillance. However, the concerns in the region are the broad powers given to the state and its agencies through legislation to conduct surveillance, the abuse of these surveillance powers, and the limited oversight and transparency of state surveillance activities. Additional concerns include the strenuous and sometimes unclear demands made on intermediaries by state security agencies, including being required to facilitate interception of communication or disclose subscriber data.[188]

Article 595 of the Beninese Digital Code, for example, authorises the interception of online correspondence in the interest of national independence, territorial integrity or national defence, preservation of major foreign policy interests, safeguard of economic and industrial interests and major scientists of Benin, prevention of terrorism, and collective violence likely to seriously undermine public peace or organised crime and delinquency. Intelligence agents may collect, from communication operators, data stored on their networks, only after written authorisation from the National Intelligence Control Commission, which is an independent institution. However, this Commission is yet to be set up and since 2018, the intelligence services have been operating without the authorisations required by law. While there is no evidence of online users' surveillance, the government is often suspected of monitoring online conversations, including on encrypted applications like WhatsApp.

In Burkina Faso, the Commission de l'informatique et des libertés (CIL), created in 2016, is in charge of personal data protection, and the government adopted a resolution on the promotion, protection and exercise of human rights on the internet. The mandate of the CIL was reinforced by the 2021 adoption of a comprehensive law on personal data protection. No cases of surveillance targeting journalists because of their work have yet been documented.[189] However, private conversations have sometimes been recorded then released on social networks, and there are suspicions of surveillance of members of the opposition[190] and diplomatic authorities.[191]

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187 *Mapping and Analysis of Privacy Laws and Policies in Africa https://cipesa.org/?wpfb_dl=454*
188 *CIPESA (2021) State of Internet Freedom in Africa https://cipesa.org/?wpfb_dl=467*
189 *Burkina: "Technically, we cannot prove that journalists are under surveillance" (Dr Cyriaque Paré), https://bit.ly/3G2yb60*
190 *Ivory Coast: Guillaume Soro releases a book on the wiretapping affair, https://bit.ly/3NU6pum*
191 *https://www.assembleenationale.bf/spip.php?article598*

Since 2013, Côte d'Ivoire has had a law governing the collection and use of personal data.[192] Although no cases of online surveillance of journalists have been recorded in the past two years, media actors are concerned about possible state surveillance.[193]

In Guinea, the new Transition Charter does not have provisions relating to personal data or the monitoring of online users, but the law on cybersecurity and the protection of personal data regulates the collection, processing and sharing of personal data. However, the lack of clarity or definition of certain terms makes the law problematic. There is no evidence that journalists are subjects of state surveillance, but the possibility can not be ruled out in view of reports of the occurrences of interception of opposition members' communications.[194]

In 1998, Kenya adopted the National Security Intelligence Service Act which established the National Security Intelligence Service (NSIS) and charged it with gathering intelligence and regulating security intelligence in the country. The Act was amended by the National Intelligence Service Act (2012) whose section 42 permits the investigation, monitoring, or interference with the privacy of a person's communications.

Likewise, the DR Congo in 2003 established the National Intelligence Agency (ANR) through Law N° 003-2003 whose article 3(3) grants the ANR authority to conduct surveillance of national or foreign persons or groups of persons suspected of carrying on an activity likely to endanger the security of the state.

Similarly, the Ethiopian Aviation Security Proclamation adopted in 2004 empowers the Security, Immigration and Refugee Affairs Authority and the Federal Police Commission to intercept and surveil individuals without a court warrant, so as to prevent unlawful acts against aviation institutions and flight safety equipment. In addition, article 14 of the country's Anti-Terrorism Proclamation of 2009 authorises the interception of communication of individuals including telephone, fax, radio, internet, electronic, postal, and similar communications.[195] Over the years, the enforcement of the Anti-Terrorism Proclamation in Ethiopia has disproportionately targeted digital media professionals, bloggers and writers.[196]

Nigerien Law No. 2017-28 of May 3, 2017 guarantees the protection and security of citizens' personal and confidential data, but the 2020 Law on the Interception of Communications bears many gaps relating to personal data protection in criminal investigations.[197] Niger has a history of suppression and surveillance of the private press in particular,[198] and with the state of emergency imposed in several regions of the country, some journalists believe they have been under surveillance because of their work. In 2015, Nigerien journalist and writer Seidik Abba claimed that his telephone conversations and email communications were being monitored by the government.[199]

In Rwanda, Article 52(1) of the Law No. 44/2001 of 30/11/2001 Governing Telecommunications empowers the minister in charge of telecommunications policy and law, to "interrupt or cause to be interrupted, any private communication which appears dangerous to the national integrity, contrary to law, public order or public morals".[200]

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192 Law No. 2013-450 of June 19, 2013 on the protection of personal data.

193 Journalists detained, attacked while covering contested election in Ivory Coast, https://bit.ly/3Uz33z6

194 Wiretapping of Koundouno and Ibrahima Diallo: Me Traoré denounces the chief of the DPJ, https://bit.ly/3fJKJ7C

195 The Terrorism of 'Counterterrorism': The Use and Abuse of Anti-Terrorism Law, the Case of Ethiopia http://eujournal.org/index.php/esj/article/view/9348/8911

196 Téwodros W. Workneh, Counter-terrorism in Ethiopia: manufacturing insecurity, monopolizing speech, https://policyreview.info/articles/analysis/counter-terror-ism-ethiopia-manufacturing-insecurity-monopolizing-speech

197 CIPESA, Niger Passes New Law on Interception of Communications, https://bit.ly/3DMBlb8

198 The private press under surveillance in Niger, https://bit.ly/3G1q7lR

199 Niger State monitors journalist Seidik Abba, https://bit.ly/3DTZwEI

200   Law No. 44/2001 of 30/11/2001 Governing Telecommunications http://www.rura.rw/fileadmin/laws/TelecomLaw.pdf

In May 2012, Burundi amended the Law No. 1/025 of November 2003, through Press Law No. 1/11 of 4 June 2013, which introduced provisions (articles 26-35 and 44-45) that unduly regulate publications whether in print or on the internet. This imposes restrictions on media reporting on matters that would undermine public order and national security, national unity, national sovereignty, morality and good morals.[201] In Senegal, article 90-10 of Law No. 2016-30 of 08 November 2016 grants an investigating judge power to use software to search a computer system remotely and to collect relevant evidence relevant to a trial or investigation.[202]

Notably, the desire to entrench surveillance has seen the introduction of provisions requiring mandatory compliance by third parties to government interception requests in several countries. Many countries, such as Cameroon, Rwanda, Uganda, Zambia, and Zimbabwe require intermediaries such as telecommunication companies and ISPs to facilitate surveillance, including by installing equipment and software on their networks that provide back doors to enable governments to lawfully intercept communications including in real-time, for such periods as may be required. The penalties for non-compliance with these requirements are often punitive.

These retrogressive provisions mirror each other across the continent. They include Article 25 of Cameroon's Law n°2010/012 of 21 December 2010 on Cybersecurity and Cybercrime; Article 61 of Chad's Cybersecurity and Cybercrime Act; Section 53 of Kenya's Computer Misuse and Cybercrimes Act, 2018; Article 7 of Rwanda's Interception of Communications, 2013; Article 11(3-4) of Tunisia's Decree No. 4773 of 2014 regulating the operations of ISPs; Section 11 of Uganda's Regulation of Interception of Communications Act, 2010; Section 38 of Zambia's Cyber Security and Cyber Crimes Act; and, Section 12 of Zimbabwe's Interception of Communications Act, 2007.

Under Uganda's Anti-Terrorism Act of 2002 law, interception of communications may be conducted on grounds such as safeguarding of the public interest; prevention of the violation of the fundamental and other human rights and freedoms of any person from terrorism; prevention or detecting the commission of any offence; and safeguarding the national economy from terrorism.[203]

South Africa stands out in the region for having a law that requires strong oversight over state surveillance. The country's Regulation of Interception of Communications and Provision of Communications Related Information Act (RICA) requires a judge's assessment to allow for surveillance.[204] But even with its robust law, the Constitutional Court found that sections of RICA violated the Constitution, in a case brought by journalist Sam Sole of AmaBhungane, who was being spied on by the state without his knowledge.[205] Moreover, in March 2021, investigative journalist Jeff Wick was reported to be under illegal surveillance and his communication was allegedly intercepted by the police's crime intelligence in an attempt to identify his sources behind the News24 coverage of issues happening within police management.[206] Indeed, a 2018 report by Right to Know on Surveillance of Journalists in South Africa details about 12 cases of surveillance, interception of communications and illegal accessing of call records by private investigators and the state. This has been conducted through the criminal intelligence system, which carried out surveillance on journalists who were working on various cases, including those on public corruption.[207]

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[201]   Text of the law https://www.assemblee.bi/IMG/pdf/N%C2%B01_11_4%20juin_2013.pdf

[202]   Loi n° 2016-30 du 08 novembre 2016 http://www.jo.gouv.sn/spip.php?article11002

[203]   The Anti-terrorism Act No.14 of 2002,"http://www.vertic.org/media/National%20Legislation/Uganda/UG_Anti-Terrorism_Act_2002.pdf

[204]   The Surveillance State: Communications surveillance and privacy in South Africa, https://www.mediaanddemocracy.com/up-
       loads/1/6/5/7/16577624/sa_surveillan-Cestate-web.pdf

[205]   amaBhungane's Rica victory: Big Brother can no longer watch us with impunity, https://www.dailymaverick.co.za/article/2021-02-07-amabhun-
       ganes-rica-victory-big-brother-can-no-longer-watch-us-with-impunity/

[206]   Sanef condemns alleged illegal surveillance of News24 journalist by Crime Intelligence, https://www.news24.com/news24/southafrica/news/sanef-con-
       demns-alleged-illegal-surveillance-of-news24-journalist-by-crime-intelligence-20210308

[207]   R2K Surveillance of Journalists Report https://www.r2k.org.za/wp-content/uploads/R2K-Surveillance-of-Journalists-Report-2018-web.pdf

Malian legislation, in terms of communications surveillance and some of its provisions, constitutes potential threats to privacy and freedom of expression. For example, articles 74 to 78 of the Law n° 2019-056 on the Suppression of Cyber Crime authorises the search of computers and seizure of data in criminal investigations, and even the copying and storage of this data. The law does not prescribe how the copied data should be stored, processed or deleted following investigations. Articles 83 to 86, on the other hand, suggest real-time surveillance through the interception of communications.

Malian communication service providers are required to cooperate with the authorities, and put in place mechanisms to control systems of potentially illegal activities. The law imposes a burden on operators to monitor network activity, and holds them responsible for the actions of their clients. These powers duplicate those already granted to the authorities in the telecommunications law, which authorises the government to, if necessary, requisition for a limited period "all telecommunications networks established on the territory of Mali, as well as the equipment connected thereto". These articles pose a significant risk to the integrity, security and confidentiality of personal data. Moreover, the law also provides for prison sentences of up to 10 years in the event of "threats or insults made through an information system", without giving the exact definition, which may give rise to abusive interpretations.

3.7.2 Undue Limitations on the Right to Privacy and Anonymous Communication

The right to privacy and data protection online is very critical due to its intricate connection with, and as a foundation for the realisation of other rights, including the rights to freedoms of expression, information, assembly, and association and the preservation of human dignity. In many African countries, the right to privacy is derogable with national security and public order being the most common justifications for limiting the right. Other reasons include the investigation and detection of crime, protection of national interests and the defence of human rights.

Whereas such limitations could be important for the protection of fundamental rights and freedoms, countries need to ensure that they are necessary, proportionate, and justifiable, while also putting in place oversight mechanisms and sufficient checks and balances to prevent the abuse of surveillance laws.

Anonymity and the use of encryption in digital communications are cornerstones in advancing both the right to freedom of expression and right to privacy. However, the ability of state agents to covertly intercept and analyse journalistic communications with sources increases the physical risk to both journalism practitioners and their sources. In addition, compelling the disclosure of sources has a chilling effect on freedom of speech and media freedom, as well as hindering the free flow of information.

Under article 17 of Zambia's constitution, the right to privacy may be limited in the interests of defence, public safety, public order, public morality, public health, and protecting the rights or freedoms of other persons. In article 45, Nigeria's constitution cites defence, public safety, public order, public morality, or public health and for the purpose of protecting the rights and freedoms of other persons as main reasons for derogating from the right to privacy.

Article 33 of Senegal's Personal Data Protection Act 2008 stipulates that "the requirement of consent is waived where the processing is necessary: the fulfilment of a legal obligation to which the controller has subscribed; the performance of a public-interest mission or of the public authority, which is entrusted to the controller or to the third party to whom the data are communicated; safeguarding the interest or fundamental rights and freedoms of the data subject." Similarly, DR Congo's law number 013/2002 of October 16th, 2002, on Telecommunications, limits the right to privacy in instances such as during a trial to prove the truth, and to protect the public order and national security.

In Rwanda, the major limitation is "national security", which is described under article 3 of the Prime Minister's Order No. 90/03 of 11/09/2014 and determines the modalities for the enforcement of the law regulating interception of communication.[208] Article 3 of the country's Law n°60/2013 of 22/08/2013 regulating the interception of communications provides that "Interception of communications shall be considered lawful where it is done in the interest of national security and in accordance with this Law."

Under article 26(3), Ethiopia's constitution states that the right to privacy can be restricted only in compelling circumstances and in accordance with specific laws whose purposes include safeguarding of national security or public peace, the prevention of crimes or the protection of health, public morality or the rights and freedoms of others.

In Zimbabwe, the right to privacy is explicitly limited under the Access to Information and Protection of Privacy Act (AIPPA) and the Interception of Communications Act. Section 25 of AIPPA provides that information may be disclosed where: the disclosure is desirable or necessary for the purpose of subjecting the activities of the government or a public body to public scrutiny; the disclosure is likely to promote public health and safety or the protection of the environment; the personal information is relevant to a fair determination of the applicant's rights; and the disclosure will assist in researching or validating the claims, disputes or grievances of indigenous people.

Under section 35(2) of Kenya's Prevention of Terrorism Act,[209] the right to privacy is limited for purposes of ensuring investigation, detection, and prevention of a terrorist act. Section 36A also limits the right for the purpose of intercepting communication directly relevant in detecting, deterring, and disrupting terrorism. Likewise, the National Intelligence Service Act in section 36 specifically limits the right to privacy in respect of a person who is under investigation by the National Intelligence Service or is suspected to have committed an offence.

In countries like Chad, Malawi, Senegal, Tanzania, Tunisia and Zambia, there are penalties for offering cryptographic services without licensing, registration, or authorisation. Interception of communications provisions often require service providers to decrypt any encrypted information that they may intercept to aid lawful interception.[210] Furthermore, in countries such as Mali and Tanzania, the laws require encryption service providers, upon registration with the authorities, to disclose the technologies they plan to use for encryption. These limitations could hinder the capacity of individuals to communicate anonymously and without fear of their communications being intercepted.[211] Encrypted communications and other defensive measures that enhance anonymity of communication between journalists and their sources are therefore of great importance to ensure that their movements are not tracked, and the identity of their sources remains confidential.[212]

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[208] Prime Minister's Order N° 90/03 of 11/09/2014 determining modalities for the enforcement of the Law regulating interception of communication, Article 3, Official Gazette n° 46 of 17/11/2014, https://bit.ly/2zuRRfW

[209] Prevention of Terrorism Act. http://www.kenyalaw.org/lex/actview.xql?actid=No.%2030%20of%202012

[210] Mapping and Analysis of Privacy Laws and Policies in Africa Summary Report https://cipesa.org/?wpfb_dl=454

[211] How Surveillance, Collection of Biometric Data and Limitation of Encryption are Undermining Privacy Rights in Africa https://cipesa.org/2021/07/how-surveillance-collection-of-biometric-data-and-limitation-of-encryption-are-undermining-privacy-rights-in-africa-2/

[212] UNESCO, 'Protecting journalism sources in the digital age', 2017 https://unesdoc.unesco.org/ark:/48223/pf0000248054

3.7.3   Increasing Surveillance and Monitoring of Journalistic Activities

According to United Nations experts[213] and Amnesty International,[214] surveillance is increasingly being used to spy on activists, journalists, and dissidents. Surveillance involves the monitoring, interception, collection, preservation, and retention of information that has been communicated, relayed, or generated over communication networks to a group of recipients by a third party.[215] Electronic surveillance is becoming common in Africa, and journalists are often the main targets. Interception of communication, mobile phone location tracking, hacking of mobile phones, and messaging and email applications are common forms of electronic surveillance.[216]

In November 2021, several investigative journalists in Uganda were reported to be among individuals targeted by surveillance malware Pegasus, which is developed and sold by the Israeli spyware firm NSO Group.[217] The targeted journalists included Canary Mugume of NBS Television and Raymond Mujuni of NTV Television. The two reported to have received email alerts from Apple warning them that Apple believed the journalists were "being targeted by state-sponsored attackers who are trying to remotely compromise the iPhone associated with your Apple ID."[218] This followed earlier reports in 2018 by Canadian internet freedom watchdog Citizen Lab, that Pegasus had been utilised in 45 countries including Algeria, Côte d'Ivoire, Egypt, Kenya, Morocco, Rwanda, South Africa, Uganda, and Zambia.

In October 2019, WhatsApp reported that a vulnerability in their application had been exploited to target Rwandan dissents with Pegasus. WhatsApp identified at least 1,400 people targeted by the vulnerability, of which a "considerable amount" were Rwandans. The targets included a journalist and a member of the opposition who were both living in exile. More recently in July 2021, it was disclosed that Morocco, Rwanda, and Togo were among the governments using Pegasus.[219]

In 2020, several African countries, including Botswana, Equatorial Guinea, Kenya, Nigeria, Zambia, and Zimbabwe, were reported[220] to be using the surveillance platform Circles, to exploit flaws in telecommunication systems and to access telephone calls, SMS messages and location services. Journalists, alongside opposition politicians, were among those whose communications were being spied on.

In 2021, Botswana published the Criminal Procedure and Evidence (Controlled Investigations) Bill, whose provisions would allow authorities to intercept communications of journalists and force them to disclose their sources.[221] Following an outcry from journalists and civil society, the Bill was withdrawn. In April 2020, journalist Oratile Dikologang was arrested and the police "successfully extracted" from his confiscated phone thousands of his messages, contacts, images, audio files, and videos, as well as social media messages, according to an affidavit police submitted to court to support the journalist's prosecution.[222] In 2019, Botswana police reportedly used Israeli-made surveillance software to extract and analyse thousands of messages, call logs, and emails, and the web browsing history of journalist Tsaone Basimahotlhe, according to an affidavit from the police forensics laboratory.[223]

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213 https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/SR2019ReportToHRC.aspx

214 When is targeted surveillance wrong? https://www.amnesty.org/en/latest/campaigns/2020/10/stopspying/

215 Privacy International, What is communications surveillance?, https://privacyinternational.org/explainer/1309/communications-surveillance

216 State of Internet Freedom in Africa 2021https://cipesa.org/?wpfb_dl=467

217 PEGASUS: Ugandan journalists targeted in spying scandal http://nilepost.co.ug/2021/11/26/pegasus-ugandan-journalists-targeted-in-spying-scandal/

218 Revealed: Ugandan Govt. Deploys Israeli Spy Tool to Hack Citizen's Phones https://www.africanexponent.com/post/17584-revealed-ugan-dan-govt-deploys-israeli-spy-tool-to-hack-citizens-phones

219 Pegasus Project: Rwandan authorities chose thousands of activists, journalists and politicians to target with NSO spyware, https://www.amnesty.org/en/latest/press-release/2021/07/rwanda-authorities-chose-thousands-of-activists-journalists-and-politicians-to-target-with-nso-spyware/

220 More African countries are relying on an Israeli surveillance tool to snoop on private citizens   https://qz.com/africa/1940897/nigeria-kenya-use-israeli-sur-veillance-tool-to-listen-to-calls/

221 Botswana media groups concerned over proposed surveillance law, https://ifex.org/botswana-media-groups-concerned-over-proposed-surveillance-law/

222 Jonathan Rozen, How Botswana Police Use US and Israeli Technology to Identify Press Sources, https://gijn.org/2021/05/19/how-botswana-police-use-us-and-is-raeli-technology-to-identify-press-sources

223 Botswana Police use Israeli Cellebrite Tech to Search Another Journalist's Phone https://www.ipsnews.net/2021/07/botswana-police-use-israe-li-cellebrite-tech-search-another-journalists-phone/

In Zambia in 2019, Huawei technicians allegedly helped the government access the phones and Facebook pages of opposition bloggers behind a pro-opposition news site that had criticised President Lungu. Huawei employees reportedly located the bloggers and were in contact with the police units deployed to arrest them.[224]

The fear of immediate harm or punishment that may result from surveillance has a chilling effect on journalists and media houses, who are often prompted to self-censor and stay away from covering some topics and individuals. Surveillance thus erodes the rights to freedom of expression and opinion, access to information, assembly, and association and to political participation.[225]

3.8   Independent Online Content Producers

The Universal Declaration of Human Rights, under Article 19, provides for the right to freedom of expression stating that, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

These rights and freedoms are further articulated in article 19(2) of the International Covenant on Civil and Political Rights (ICCPR), which states that: "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

In 2016, the United Nations passed a non-binding resolution on "the promotion, protection, and enjoyment of human rights on the Internet." The resolution specifically condemns measures to prevent or disrupt access and calls on all states to refrain from and cease such measures. It further recognises the importance of access to information and privacy online for the realisation of the right to freedom of expression and to hold opinions without interference. Although there is no express right of access to the internet under international law, the 2016 United Nations Resolution urges states to "consider formulating, through transparent and inclusive processes with all stakeholders, and adopting national Internet-related public policies that have the objective of universal access and enjoyment of human rights at their core."

Moreover, article 9(1) of the African Charter on Human and Peoples' Rights (ACHPR) states that, "Every individual shall have the right to receive information"; while article 9(2) states that "Every individual shall have the right to express and disseminate his opinion within the law". The African Commission on Human and Peoples' Rights has also adopted several resolutions aimed at promoting the right to freedom of information and freedom of expression in Africa. For example, its resolution 362 of 2016 reaffirms the fundamental right to freedom of information and expression enshrined under article 9 of the African Charter on Human and People's Rights and in other international human rights instruments and recognises the role of the internet in advancing human and people's rights in Africa.

Indeed, Principle 38 of the ACHPR Declaration of Principles of Freedom of Expression and Access to Information in Africa requires States to among others, "not interfere with the right of individuals to seek, receive and impart information through any means of communication and digital technologies, through measures such as the removal, blocking or filtering of content, unless such interference is justifiable and compatible with international human rights law and standards."

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224   *Huawei Technicians Helped African Governments Spy on Political Opponents,*
       https://www.wsj.com/articles/huawei-technicians-helped-african-governments-spy-on-political-opponents-11565793017

225   *Unseen Eyes, Unheard Stories Surveillance, data protection, and freedom of expression in Kenya and Uganda during COVID-19, https://www.article19.org/wp-content/up-loads/2021/04/EAF-Surveillance-Report_Final-min.pdf*

The increasing penetration and adoption of the internet has aided the growth of many independent online content producers including bloggers, vloggers, and citizen journalists, since anyone with access to a computer or a smartphone can gather and disseminate information and publicly communicate their opinions and ideas to the world via a blog or on social media networks.[226] In countries where the traditional media is heavily censored, blogging, and social media sites have provided people with alternative ways of distributing information and exercising their right to freedom of expression.[227]

However, as explained below, criminalisation of free speech online, notably through laws that purportedly aim to fight "fake news" and "false news", requirements for digital media and independent content creators to be licensed and to pay annual fees, coupled with the intimidation, arrests and prosecution of journalists and online content creators, raise key concerns.

3.8.1 Criminalisation of Free Speech Online

Over the last few years, some countries have systematically used criminal law to prosecute and punish aspects of journalistic practices. These include the introduction of provisions that criminalise the publication of false news and communication considered offensive, as well as the requirement for journalists to reveal sources of information. Other legal provisions introduced purportedly to tackle fake news require persons to only publish "true" and "authenticated" information or be held liable. Such laws are often broadly and vaguely worded and have in various instances been employed to silence critical journalists. In countries like Kenya, Nigeria, Tanzania and Uganda, such laws have become the leading legislative tool used by state authorities to harass, arrest, and prosecute journalists and independent content producers.

According to a 2021 study, Benin, Burkina Faso, Côte d'Ivoire, Ethiopia, Kenya, Malawi, Niger, Nigeria, Senegal, South Africa and Uganda have nearly doubled their laws and regulations on misinformation since 2016.[228] Besides, one in three of these laws requires no evidence that the "false" information caused or risked harm for it to be penalised and the process for determination of falsity or harm by courts is not specified or well-articulated. What is more, the laws are framed and applied in ways that target opposition politicians and journalists, not those who create and spread misinformation.

In May 2015, Nigeria introduced the Cybercrimes (Prohibition, Prevention etc) Act to provide a framework for the prohibition, prevention, prosecution, and investigation of cybercrimes. However, Section 24 of this law penalises "cyberstalking" and online publication of messages that one "knows to be false, for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another." This offence is punishable by a fine of not more than seven million naira (USD 16,867) or imprisonment for a term of not more than three years or both. Unfortunately, this provision has been used to arrest several bloggers and online journalists on charges of "cyberstalking" stemming from articles critical of the government.[229]

Furthermore, under section 59 of Nigeria's Criminal Code Act, it is an offence for any person to publish or reproduce any statement, rumour or report that is likely to cause fear and alarm to the public or to disturb the public peace, knowing or having reason to believe that such statement, rumour, or report is false. The penalty upon conviction is imprisonment for three years.

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226   *The Right to Blog https://www.article19.org/wp-content/uploads/2018/02/Right-to-Blog-EN-WEB.pdf*

227   *Ibid*

228   *Governments in Africa have doubled 'false news' laws, to little effect. Another way is possible https://africacheck.org/fact-checks/blog/governments-afri-ca-have-doubled-false-news-laws-little-effect-another-way-possible*

229   *How Nigeria's cybercrime law is being used to try to muzzle the press https://cpj.org/blog/2016/09/how-nigerias-cybercrime-law-is-being-used-to-try-t.php*

Likewise in Rwanda, the 2018 Law on the Prevention and Punishment of Cyber Crimes, in article 39 prohibits the publication of "rumours" that "may incite fear, insurrection or violence amongst the population or that may make a person lose their credibility". The offence is punishable by up to five years in prison and a fine of up to three million Rwandan Francs (USD 2,932).[230] In Benin in 2018, the Digital Code reinstated custodial sentences for journalists and has been used to detain and prosecute journalists working online, as was the case with investigative journalist Ignace Sossou in 2020.[231]

In Burkina Faso, where the security situation has sharply deteriorated, an amendment to the penal code criminalises the dissemination of information on military operations or terrorism. In Burundi, the media regulator, le Conseil National de la Communication (CNC), for the second time suspended the online commentary column of the Iwacu newspaper for three months in April 2018.[232] Four Iwacu journalists were released from prison in December 2020 by way of a presidential pardon after serving 14 months of a two-and-a-half year jail sentence for "complicity in undermining state safety".[234]

In May 2018, Kenya adopted the Computer Misuse and Cybercrimes Act, 2018, which introduced offences such as false publications, publication of false information, cyber harassment, and unauthorised interference and unauthorised interception. The Bloggers Association of Kenya (BAKE) and the Kenya Union of Journalists (KUJ) petitioned the High Court to declare 26 sections of the Act unconstitutional, a request dismissed by the High Court in February 2020, ruling that the said provisions were constitutional.[235] In August 2020, the Court of Appeal dismissed a Notice of Motion filed by the Law Society of Kenya that sought to suspend the enforcement of 26 provisions in the cybercrimes law.[236] BAKE has appealed the 2020 High Court decision and the case is still under consideration before the Court of Appeal. Bloggers and activists such as Edgar Obare[237] and Mutemi wa Kiama[238] are among those who have been arraigned in court over violation of this law.

In Tanzania, Section 16 of the Cybercrime Act, 2015 makes it an offence to publish information, data or facts presented in a picture, text, symbol, or any other form in a computer system, where such information, data or fact is false, deceptive, misleading, or inaccurate. The political opposition, national and international human rights groups challenged the constitutionality of the law, but the Chief Justice, Mohammed Chande Othman, defended the law in a speech saying that it was enacted in good faith to safeguard the right to privacy of Tanzanians.[239] The law has over the years been abused by state authorities who continue to arrest and prosecute users for expressing what many see as legitimate opinions.

230 RURA,' Law No 60/2018 of 22/8/2018 on prevention and punishment of cybercrimes', https://rura.rw/index.php?id=104&tx_news_pi1%5Bnews%5D=603&tx-_news_pi1%5Bday%5D=27&tx_news_pi1%5Bmonth%5D=9&tx_news_pi1%5Byear%5D=2018&cHash=cf6a0de5282574dd3c3a8081a6348b83

231 Reporters Without Borders, Beninese journalist's conviction must be quashed, https://rsf.org/en/beninese-journalists-conviction-must-be-quashed

232 CNC suspends commentary column of Iwacu newspaper, https://www.iwacu-burundi.org/englishnews/cnc-suspends-commen-tary-column-of-iwacu-newspaper-2/#:~:text=Burundi%20Media%20Regulator%20CNC%20has,be%20saddened%20by%20the%20decision.

233 Burundian journalists pardoned in presidential decree https://apnews.com/article/burundi-media-journalists-kenya-19d29f8651af88935196e7b0ac4bb9d3

234 Iwacu journalists sentenced to two years and six months in prison https://www.iwacu-burundi.org/englishnews/iwacu-journal-ists-sentenced-to-two-years-and-six-months-in-prison/#:~:text=On%20Thursday%2030%20January%2C%20the,the%20trial%20on%20December%2030.

235 https://tripleoklaw.com/legal-alert-fully-effective-the-computer-misuse-and-cybercrimes-act-2018/

236 Kenya: Court of Appeal's ruling strikes further blow to free expression and privacy https://www.article19.org/resources/kenya-court-of-appeals-ruling/

237 DCI Issue statement on Edgar Obare's arrest as KOT lobby for his release https://www.pulselive.co.ke/entertainment/movies/dci-is-sue-statement-on-edgar-obaras-arrest-as-kot-lobby-for-his-release-via/jzjqcfc

238 Kenya: Release and cease attacks on Edwin Mutemi wa Kiama https://www.article19.org/resources/kenya-cease-attacks-on-and-release-edwin-mutemi-wa-kiama/

239 Why cybercrime act is not easy to defend and justify https://www.thecitizen.co.tz/oped/Why-cyber-crime-act-is-not-easy-to-defend-and-justify/1840568-3206562-sp7m5f/index.html

In the DR Congo, publishing information relating to the situation of soldiers could be considered incitement of members of the armed forces and law enforcement agencies to divert them from their duties.[240] Meanwhile in Ethiopia, despite recent progress to reform several laws, the government in 2020 passed a hate speech law[241] that unduly criminalises and broadens the definition of hate speech and the dissemination of fake news.[242]

In Somalia, the Penal Code contains provisions which criminalise various forms of expression. It specifies various offences such as "defamation", "offending the honour and prestige of the head of state", "the publication or dissemination of false, exaggerated or tendentious news", and "insulting a public officer or institution". Provisions on these offences can be manipulated to suppress press freedom, thereby preventing media and journalists from doing their work. The provisions also threaten the personal freedom of citizens.[243] Most of these offences attract considerable penalties, including sentences of up to three years in prison. In August 2020, amendments were made to the Somalia Media Law, but with vague wording in article 4 which could be exploited to undermine press freedom. The words include "spreading false news", "inciting violence or promoting tribalism" and "spreading unfounded propaganda".[244]

Uganda's Computer Misuse Act 2011, which prohibits cyber harassment (section 24) and "offensive communication" under section 25, has been used to arrest and prosecute government critics. In 2017, David Mugema, a musician, and his producer Jonah Muwanguzi, were arrested and charged with offensive communication after they composed, recorded, produced, and distributed a song which allegedly attacked and disturbed the peace of President Museveni.[245] Muwanguzi was also charged with promoting offensive communication by aiding Mugema in producing the song. Likewise, in August 2019, Dr. Stella Nyanzi, an academic and human rights activist, was convicted and jailed for 18 months for cyber harassment but acquitted of offensive communication against President Museveni, having been charged under Sections 24(1) and (2)(a) of the Computer Misuse Act 2011.[246] Following an appeal against her conviction and sentence, Dr. Nyanzi was acquitted and released in February 2020.[247]

Still in Uganda, in March 2020, a pastor was arrested for "uttering false information[248] and spreading harmful propaganda" about the coronavirus, as were journalist Samson Kasumba[249] and writer Kakwenza Rukirabashaija. Meanwhile, social critic Joseph Kabuleta was charged with offensive communication over a Facebook post in which he reportedly called the president a liar and gambler.[250] In May 2021, Mike Muhima, an activist, was charged with "offensive communication" after sharing a post on his Twitter handle that parodied the police spokesperson.[251]

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240 *Internews and Albany Associates, Revue de la Législation sur les medias en RDC, Juin 2012, p.5. http://www.smartcomms.org/wp-content/uploads/2011/07/Revue-de-la-l%C3%A9gislation-sur-les-M%C3%A9dias-en-RDC.pdf*

241 *Hate Speech and Disinformation Prevention and Suppression Proclamation, 2020 https://www.article19.org/wp-content/uploads/2021/01/Hate-Speech-and-Disinformation-Prevention-and-Suppression-Proclamation.pdf*

242 *Ethiopia: Hate speech and disinformation law must not be used to suppress the criticism of the Government https://www.article19.org/resources/ethiopia-hate-speech-and-disinformation-law-must-not-be-used-to-supress-the-criticism-of-the-government/*

243 *State of Press Freedom in Somalia https://sjsyndicate.org/wp-content/uploads/2022/01/State-of-Press-Freedom-in-Somalia-2021-Silencing-Journalists-through-Targeted-Attacks-Restrictions-and-Censorship-Amid-Precarious-Working-Conditions.pdf*

244 *Joint Letter Re: Concerns and Recommendations on Somalia's New Media Law https://www.hrw.org/news/2020/10/05/joint-letter-re-concerns-and-recommendations-somalias-new-media-law*

245 *Musician arrested for disturbing Museveni's peace, https://mobile.nation.co.ke/news/africa/Musician-arrested-for-disturbing-Yoweri-Museveni-peace/3126394-4216504-1mpklhz/index.html*

246 *Al Jazeera, "Ugandan academic Stella Nyanzi jailed for 'harassing' Museveni," August 3, 2019, available at https://www.aljazeera.com/news/2019/08/ugandan-academic-stella-nyanzi-jailed-harassing-museveni-190803141817222.html*

247 *Harassing the president: Court orders immediate release of Stella Nyanzi, https://observer.ug/news/headlines/63597-harassing-the-president-court-orders-immediate-release-of-stella-nyanzi*

248 *Uganda: Pastor Arrested for Claiming 'Simple Flu' COVID-19 Doesn't Exist in Uganda https://allafrica.com/stories/202003300086.html*

249 *Ugandan Security Forces Arrest Writer, TV Anchor After Coronavirus Posts https://www.voanews.com/a/africa_ugandan-security-forces-arrest-writer-tv-anchor-after-coronavirus-posts/6187944.html*

250 *https://cpj.org/2019/07/ugandan-commentator-arrested-over-facebook-post-cr/*

251 *Uganda: Drop Charges Against Law Student https://www.hrw.org/news/2021/05/20/uganda-drop-charges-against-law-student*

In Senegal, article 254 of the Penal Code creates the offence against the President of the Republic. While the law does not define the "offence" against the Head of State, it has been used to arrest and detain individuals. Further, article 431-59 of the country's 2008 Cyber Crimes Law,[252] criminalises the public dissemination of immoral objects or images through print, broadcast, or digital communication.

In 2017, Zimbabwe introduced a draft Computer Crime and Cybercrime Bill which proposes to introduce the offence of harassment utilising means of electronic communication, which could be used to silence critics online.[253] In March 2021, it was gazetted as the Cyber and Data Protection Act, Act 5 of 2021 and introduced amendments to the Criminal Law Code, which include a provision on cyberbullying and harassment. Journalists have been threatened and arrested under this provision, among other repressive laws in the country.[254]

In making legislation against what they characterise as "false news", governments appear to be addressing a legitimate concern. Disinformation and misinformation have become rampant on the continent and have a broad range of negative effects. Besides, in some countries, online hate speech is a growing problem and one that affects public order, peace, and security. However, in many countries the laws passed to address the phenomenon generally known as "false news" or "fake news" are broadly worded and have often been used to clamp down on the legitimate expression and operations of political dissenters, journalists, and independent content producers.

3.8.2 Registration and Licensing of Online Content Producers

With the growth of online communities, many countries have reacted by enacting laws, policies and directives that require the registration and licensing of online content producers. The registration and licensing requirements stipulate fees for both registration and renewal of the licences and provide punitive measures for non-compliance.

In Benin, citizens are free to produce and disseminate information, including online, notably through blogs, which does not require prior registration with an administrative authority. Article 22 of the Information and Communication Code created the status of "assimilated to the function of journalist", which benefits 15 professions, such as press editors, reporter-photographers, and graphic designers. The code also mentions "gruntlers", meaning ordinary citizens who take part in interactive radio programmes to denounce bad governance. However, professional organisations such as the Association of Pensioners of the Written Press of Benin (ARPEB) have called for the removal of "gruntlers" from the list of assimilated journalists, arguing that, "gruntling does not therefore require special training as is the case for the fourteen other professions listed in article 22 and whose practitioners are trained in schools and training centres". [255]

The Burkina Faso government seems to have grasped the importance of the digital arena for access to information, but is suspected of having created "boxers" - people paid by political leaders who attack political opponents with hate messages.[256] This undemocratic practice also feeds the culture of online harassment and, since enactment of the 2019 Law prohibiting the dissemination of content linked to terrorism, intimidation of whistleblowers has multiplied, such as that received by the activist Touré Naïm.[257]

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252 Law No. 2008-11 of 25 January 2008 on cybercrime (JORS, no. 6406 of 03 May 2008, p. 419) (Appendix 1). https://ictpolicyafrica.org/api/documents/download?_id=5d94329c9b93fa001b803d4c

253 Text of the bill: https://www.techzim.co.zw/wp-content/uploads/2016/09/Zimbabwes-draft-Computer-Crime-and-Cybercrime-Bill-16-September-2016-version.pdf

254 Zimbabwe police warn of crackdown on 'cyberbullying' of officials, https://www.aljazeera.com/news/2020/12/8/zimbabwe-police-warn-of-crackdown-on-cyberbullying-of-officials and Zimbabwean authorities charge journalist Hope Chizuzu under cybercrime law, https://cpj.org/2022/10/zimbabwe-authorities-charge-journalist-hope-chizuzu-under-cybercrime-law/

255 The "gruntlers" assimilated to journalists: The Seniors of the written press challenge the HAAC, http://news.acotonou.com/h/89788.html

256 African Media Barometer Burkina Faso 2019, P. 13

257 Naïm Touré: Burkinabè activist arrested four times in four years, https://bit.ly/3G1x7z9

Senegal has a dynamic network of bloggers who publish articles, organise awareness-raising meetings, and help the population to better understand public interest issues. The Press Code makes no reference to bloggers or citizen journalists, but they are a key part of the Senegalese media landscape.[258] These citizen journalists were very active during the country's last elections, participating in monitoring the election process through their documentation and reporting.[259]

In April 2018, the Ugandan Communications Commission (UCC) directed online data communication service providers,[260] including online publishers, online news platforms and online radio and television operators to apply and obtain authorisation from the commission within a period of one month or risk having their websites and streams being blocked by ISPs. Later in 2019, it announced that "online publishers and influencers who have reached a capacity of sharing communication content and using the online publication for commercial business" had to register with UCC and pay a USD 20 levy.[261] In September 2020, the regulator issued fresh directives stating that anyone wishing to publish information online must be licensed ahead of an October 5 deadline. The Commission cited section 27 of the 2013 Uganda Communications Act, among others, which prohibits broadcasting content without a licence.

On the other hand, Tanzania's history of licensing online users can be traced to March 2018, when the government adopted the Electronic and Postal Communications (Online Content) Regulations[262] making it compulsory for bloggers and owners of other online forums such as discussion forums and online television and radio streaming services to register with the regulator. Online content creators[263] were to pay an application fee of USD 43.7, an initial three-year license fee of USD 437 and a renewal fee of a similar amount. The penalty for non-compliance included a fine of USD 2,186 and pay up to USD 900 for a licence. Subsequently, several unregistered bloggers and online forums suspended operations for fear of criminal prosecution.[264]

Since then, the Tanzanian government has amended the regulations.[265] Under the 2020 regulations, online content service providers, internet service providers, and application services licensees were still required to pay exorbitant fees for licensing and renewal of licences. Providers of "online content service", described as "content broadcasting to the public through internet websites, application software, forums, blogs, weblogs, microblogs, public account, instant messaging tools, online live streaming, aggregators and other related platforms", had to pay an application fee of Tanzania Shillings (TZS) 100,000 (USD 44); initial licence fee of USD 440 or USD 220; annual licence fee of USD 440 or USD 220; and a licence renewal fee of USD 440 or USD 220.

258 *Citizen journalism in Senegal: In the world of blogging and micro-blogging, https://bit.ly/3NRSTHw*

259 *''The Citizen Journalist does not have same rights as a professional journalist'', https://bit.ly/3DK4UtW*

260 *Registration of Online Data Communication and Broadcast Service Providers http://www.ucc.co.ug/wp-content/uploads/2018/03/UCC_ONLINE-DA-TA-COMMUNICATIONS-SERVICES.pdf*

261 *UCC registers online publishers and influencers https://www.newvision.co.ug/new_vision/news/1504833/ucc-registers-online-publishers-influencers*

262 *2018 Electronic and Postal Communications (Online Content) Regulations https://www.tanzania.go.tz/egov_uploads/documents/THE_ELEC-TRONIC_AND_POSTAL_COMMUNICATIONS_(ONLINE_sw.pdf*

263 *Strict new internet laws in Tanzania are driving bloggers and content creators offline https://www.theverge.com/2018/7/6/17536686/tanzania-inter-net-laws-censorship-uganda-social-media-tax*

264 *The shrinking civic space in East Africa https://cipesa.org/?wpfb_dl=299*

265 *The Electronic and Postal Communication (Online Content) Regulations, 2020 https://www.tcra.go.tz/uploads/docu-ments/sw-1619088125-The%20Electronic%20and%20Postal%20Communications%20(Online%20Content)%20Regulations,%202020.pdf*

Proposed amendments unveiled in 2021[266] largely reflected[267] the 2020 regulations, although they contained some positive elements such as reduction of licence application fees, as well as annual and renewal fees charged for online media content services and online content aggregators. Thus, online media content service providers would pay application fees of TZS 50,000 (USD 22) down from TZS 100,000 (USD44), initial licence fees of USD 217 from USD 440, annual licence fees of USD 217 from USD 440 and renewal fees of USD 43 from USD217. The regulations were amended in 2022[268] and now exempt mainstream media from licensing. They introduced new licence categories, revised the documentation required for applications, they now require online news and current affairs licensees to adhere to journalistic ethics and professional standards, and reduced renewal fees for online media services by 50 percent to TZS 50,000 (USD 22).

In Zimbabwe, the Broadcasting Authority of Zimbabwe (BAZ) requires licensing of webcasters under the Broadcasting Services Act 2001.[269] While the provisions have largely been ignored[270] by recently formed online news agencies, many of which distribute content especially on YouTube channels without acquiring a licence, the fact that the law is still on the statutory books means it could be a matter of time before the rules are invoked.

In 2020, the government in Lesotho issued the Lesotho Communications Authority (Internet Broadcasting) Rules, 2020[271] that require all social media users with more than 100 followers to register as "internet broadcasters." Upon registration, these individuals would have to abide by the same rules that govern broadcast media houses as provided for under the Lesotho Telecommunications Authority (Broadcasting) Rules 2004.[272] In addition, the move would also allow regulators to investigate social media users' posts and even order them to remove them.[273] These regulations mirror a similar law Egypt introduced in July 2018, which treats any social media user with over 5,000 followers as a media outlet,[274] thus exposing them to prosecution for publishing false news or incitement to break the law.

Ethiopia's 2020 law on hate speech and disinformation similarly introduces harsh penalties for hate speech or disinformation over social media accounts with more than 5,000 followers. The punishment prescribed is imprisonment of up to three years and 100,000 birr (USD 2,907), but where violence or a public disturbance occurs as a result of dissemination of disinformation, the punishment is "rigorous imprisonment from two years up to five years".[275] This threat of excessive penalties disproportionately affects the free expression of journalists and bloggers.

However, Ethiopia's Media Proclamation of 2021 has some positive elements such as decriminalisation of defamation, establishment of an independent media regulator (the Ethiopian Media Authority), and the recognition of online media. Online media outlets can form associations and can bring complaints to court in case of interference with their rights. However, there is no legal recognition given to bloggers nor are they required to register officially. It is also not mandatory for online media outlets to register with the government. However, having that registration certificate is beneficial as they would have legal protection under the law.[276]

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266 The Electronic and Postal Communication (Online Content) (Amendment) Regulations, 2021 https://tcra.go.tz/uploads/news-docs/en-1629801878-Draft%20-%20Amendmend%20Online%20Content%20Regulations%2018%20August%202021.pdf

267 Analysis of Proposed Amendments to Tanzania's Online Content Regulations 2021 https://cipesa.org/?wpfb_dl=469

268 The Electronic and Postal Communication (Online Content) (Amendment) Regulations, 2022 https://www.tcra.go.tz/uploads/documents/sw-1649054831-The%20Online%20Content%20GN%20No.%20136.pdf

269 Broadcasting Services Act, 2003 https://www.itu.int/ITU-D/projects/ITU_EC_ACP/hipssa/Activities/SA/docs/SA-1_Legislations/Zimbabwe/Broadcasting_Services_Act.PDF

270 Freedom on the Net 2021/Zimbabwe https://freedomhouse.org/country/zimbabwe/freedom-net/2021

271 Social Media Rules Draft V3 https://www.lca.org.ls/wp-content/uploads/2020/10/SOCIAL-MEDIA-RULES-2020-DRAFT-V3-250820.pdf

272 Lesotho Telecommunications Authority (Broadcasting) Rules 2004 https://wipolex.wipo.int/en/text/221233

273 Tiny African Nation of Lesotho Proposes Social Media Limits   https://www.voanews.com/a/africa_tiny-african-nation-lesotho-proposes-social-media-limits/6197166.html

274 Egypt targets social media with new law   https://www.reuters.com/article/us-egypt-politics/egypt-targets-social-media-with-new-law-idUSKBN1K722C

275 Ethiopia's New Hate Speech and Disinformation Law Weighs Heavily on Social Media Users and Internet Intermediaries, https://cipesa.org/2020/07/ethiopias-new-hate-speech-and-disinformation-law-weighs-heavily-on-social-media-users-and-internet-intermediaries/

276 Media Proclamation No. 1238/2021, https://chilot.me/wp-content/uploads/2021/04/Media-Proclamation-No.-1238-2021.pdf

In 2021, Zambia's media regulator, the Independent Broadcasting Authority (IBA), issued orders[277] requiring online television stations to obtain a broadcasting licence, noting that, "any person wishing to operate or provide a broadcasting service in Zambia regardless of whether the broadcasting service is conveyed through a radio frequency spectrum or any electronic communication network such as the internet is required to obtain a broadcasting licence from the IBA. Operating without a broadcast licence amounts to an offence punishable under section 19(2) of the IBA act."

Malawi's Electronic Transaction and Cyber Security Act, 2016 requires online content providers to conspicuously display on their webpage their full name, domicile, telephone number, and email address of the editor if a natural person. In case of a legal entity, they are required to show their corporate name, postal and physical address of the registered office, telephone number, email address, authorised share capital, and registration number of the editor.[278] This in effect limits anonymity. The penalty for non-compliance is a custodial sentence of 12 months and a fine of five million kwacha (USD 6,600).

Independent content producers in eSwatini lack a viable market for their content as the country has only one television station, eSwatini TV. The national broadcaster collects money for TV licences but has no budget for content producers. Content producers, like journalists, also have to navigate a treacherous environment characterised by draconian legislation that undermines creativity and promotes self-censorship.

The laws and regulations detailed above undermine the potential of digitalisation and the internet to lower the barriers to online expression and online publishing. Further, they hamper local content production and the plurality of information available to African audiences, while promoting self-censorship. Journalists and content producers who are registered and licensed are likely to self-censor to maintain their licences and will likely shun reporting or commenting about issues which they fear might attract reprisals from state authorities and other powerful actors.

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277 Zambia's online broadcasters warned to keep in line https://itweb.africa/content/dgp45qa6K5avX9l8
278 Electronic Transaction and Cyber Security Act, 2016; https://bit.ly/2Cjmsy0

4.0 Conclusion and Recommendations

4.1 Conclusion

Freedom of expression and the safety of journalists have been on the decline in numerous countries on the continent. Whereas there have been some gains over the past few years in terms of media development, emergence of media houses (most especially online media), and freedom of expression in general, journalists and media houses continue to face mounting challenges in relation to their work. Moreover, while attacks on journalists are growing in several countries, the perpetrators, who often include security agents and other state officials, are rarely held accountable for their actions.

For many countries it has been a case of one step forward and a subsequent step backwards. Progress has been made with some governments introducing explicit legal provisions and constitutions protecting freedom of expression and freedom of the media. More laws have been enacted on access to information, data protection and, in a number of countries, on the protection of sources. Further, in many countries custodial sentences for press offences have been abolished over the last decade.

However, many of the gains have been reeled back, with political and economic pressures, as well as conflict situations, fuelling the retrogression. The adoption of laws relating to the fight against terrorism, surveillance, cybercrime, online expression or disinformation has considerably weakened the legal environment in which journalists operate. Key concerns include the broad possibilities offered by some cybersecurity laws to unduly restrict freedom of expression and media freedom by giving governments wide power to intrude on the private lives of citizens and the professional lives of journalists.

The research findings also show that despite the benefits that digitisation has brought to the practice of journalism in Africa, the different measures that some governments have employed to control and regulate the use of ICT have negatively affected journalism practice on the continent. Because access to the internet and digital technologies is both a right and an enabler of other rights, any measures taken to control and undermine this access and usage has a significant impact on the right to freedom of expression, access to information, assembly, privacy and by extension, democratic participation.

4.1.1 Key Achievements

Several milestones have been reached on the continent including:

- The launch of the Digital Platform on the Safety of Journalists in Africa on January 29, 2021, to document violations of the rights of journalists and to hold governments to account.
- The growth and emergence of new media across the continent. There have been tremendous gains over the past decade in media development, the emergence of media houses, most especially online media, and digital technologies and tools enabling greater freedom of expression, especially in the online domain.
- In Eastern Africa, national mechanisms for the safety and protection of journalists have been established. These bring together media councils, journalists' unions, associations, media support groups, journalism training institutions, human rights defenders, government representatives and development partners.
- In Somalia, where killers of journalists are rarely brought to book, the government announced in 2020 the appointment of a special prosecutor for crimes against journalists. The prosecutor is based in the Office of the Attorney General.
- Enactment of progressive media laws in some countries. Almost two decades ago, there were concerns particularly in West and Central Africa, that media laws generally failed to meet internationally recognised standards on media freedom. This has changed as many governments in the region have introduced explicit legal provisions and constitutions protecting freedom of expression and freedom of the media.
- Ratification of international conventions. Over the last decade, many African governments have signed and ratified international and regional conventions that guarantee freedom of expression and media freedom, such as the African Charter on Human and Peoples' Rights.
- The adoption of the African Union Convention on Cybersecurity and Data Protection by the African Union promises to strengthen respect for the right to privacy and data protection. It could be an instrument in regulating the unlawful surveillance and assuring the privacy and anonymity of journalists' communications and their sources.
- The adoption by the African Commission on Human and Peoples' Rights (ACHPR) of the Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019) is significant. The Declaration espouses key principles relevant to journalists' safety and media freedoms in the internet age. Also its Principle 20 specifically addresses "Safety of journalists and other media practitioners."
- The adoption of the Windhoek+30 Declaration under the theme 'Information as a Public Good', in May 2021 provides a building block for concerted global action on freedom of expression and the implementation of many elements of the UNPoA.

However, challenges still remain, as detailed below.
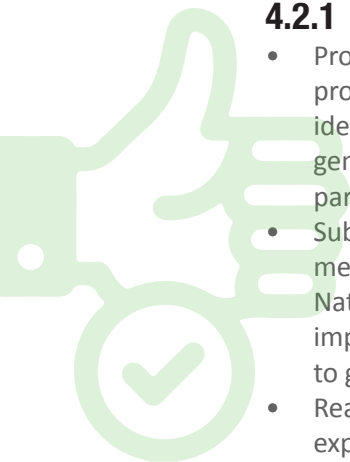
4.1.2 Key Challenges

- In many parts of Africa, journalists and media workers continue to experience relentless attacks that include killings, torture, enforced disappearances, arbitrary arrests and detentions, intimidation, harassment, threats and other forms of violence. It is disturbing that these attacks continue to be witnessed 10 years after the adoption of the UN Plan of Action on the Safety of Journalists.
- While attacks on journalists are growing in several countries, the perpetrators, who often include security agents and other state officials, are rarely held to account for their actions. Impunity for crimes against journalists persists as the courts and judicial systems rarely punish these attacks and threats. In many instances where investigations are launched, they are not successful. For example, the killers of journalists in countries such as Somalia, DR Congo and Nigeria are rarely brought to book, while in countries such as Tanzania the disappearance of investigative journalist Azory Gwanda in 2017, which some have linked to state agencies, has not been sufficiently investigated by government authorities. Similarly, the 2019 murder of Ghanian investigative journalist Ahmed Hussein Suale remains unresolved.

- Research findings show that despite the increased access to and affordability of ICT and the benefits that digitisation has brought to the practice of journalism in Africa, the different measures that some governments have employed to control and regulate the use of ICT have adversely affected journalism practice on the continent. These measures have curtailed the enjoyment of the rights to freedom of expression, access to timely and accurate information as well as privacy and the protection of personal data.

- The increase in the number of reported cases of surveillance and interception of private communications as well as measures such as the licensing of online content producers, including bloggers, coupled with the imposition of hefty penalties for non-compliance, has led to online and offline self-censorship and the takedown or blockage of access to some blogs and websites.

- The ongoing surveillance is bolstered by various laws, policies and practices which have become ubiquitous across various countries. Unfortunately, these laws tend to have deep flaws including being ambiguous and wide in scope of application. They are also partially implemented, and are often abused by state security agencies in the conduct of state surveillance. Indeed, laws in most countries do not incorporate adequate checks and balances such as independent judicial oversight over lawful communication interception. Consequently, they give state security agencies the leeway to conduct surveillance unsupervised and in an opaque and unaccountable manner. Such concerns are exacerbated in countries such as Ghana, Nigeria, Rwanda, Tanzania and Uganda, where surveillance can be conducted without obtaining court orders or based on oral applications for authorisation.

- While the online world offers a range of opportunities to journalists, trolling has become a serious threat to press freedom. Trolls threaten and silence critical journalists and harass many, particularly women, forcing some to abandon social media. Moreover, the development of coordinated cyber armies who run trolling campaigns sponsored by some government officials and other powerful political actors is of concern. These trends heighten the threats to journalists' freedom and safety and contribute to self-censorship. Notably, the low levels of digital security skills; poor reporting of online abuses to law enforcement agencies; the limited skills and interest of authorities in investigating and prosecuting cyber crimes; and the inadequacy of existing laws in tackling trolling and online violence especially against women, only exacerbate the problem.

- The impact of the digital siege on journalists goes beyond journalism practice and has a ripple effect on the wider democracy terrain. Because access to the internet is both a right and an enabler of human rights, any measures taken to control and regulate its access and use has a significant impact on the right to freedom of expression, access to information, assembly, privacy and participation in political and public affairs.

- Big tech companies such as those that run social media platforms are not doing enough to uphold freedom of expression and protect users in Africa, including journalists, from online attacks on their platforms.

- Conflict situations continue to perpetrate some of the gravest safety challenges to journalists, which primarily explains why Somalia tops the list of the most dangerous countries for journalists. Similarly, the deteriorating security situation around the Sahel region presents stark safety challenges to journalists in such countries as Burkina Faso, Niger, Mali and Nigeria, where military authorities deter journalists from travelling to certain areas, some countries' laws prohibit the dissemination of information on military operations or terrorism, and armed non-state groups occasionally threaten journalists.

- Many governments used the COVID-19 pandemic as an excuse to further repress the media, thus compromising the freedom of expression and the safety of journalists. Some governments have continued to maintain an iron grip on the media, exacerbating the various threats which the pandemic wrought on journalism.

4.2 Recommendations

Changing the tide will require concerted efforts by the different stakeholders including government, media, academia, business, civil society, media support organisations, regional and international bodies as well as technology companies, each playing their unique role.

4.2.1 Government

- Promote a clear understanding amongst stakeholders of the four Ps (prevention, protection, prosecution, and partnerships) principles on the safety of journalists to support the identification of the threats against journalists and the media, and freedom of expression generally. This would enhance efforts to advance prevention, protection, prosecution, and the partnerships necessary to end impunity.
- Submit periodic reports to the different international human rights treaty body monitoring mechanisms such as the African Commission on Human and Peoples' Rights, the United Nations Human Rights Committee, and the Universal Periodic Review process, on the status of implementation of relevant national, regional, and international laws and the measures taken to guarantee the rights of journalists, bloggers and the media..
- Reaffirm commitment to protecting the right to information, press freedom and freedom of expression online and offline; publicly condemn violations of these rights, order investigations into the violations and prosecute the perpetrators. These actions should be complemented with the provision of the necessary intelligence, logistical and financial support to law enforcement agencies to conduct effective investigations and prosecutions.
- Review and reform the repressive provisions of laws that regulate cybercrime, false publication, mis/disinformation and public order, particularly in respect of online publications; and those authorising surveillance, interception of communication, collection, processing and storage of personal data to introduce more independent judicial oversight in order to reduce the potential abuses and protect safety, security, and anonymity.
- Adopt a transparent, multi-stakeholder approach to enacting, reforming or repealing legal instruments regulating press freedom and freedom of expression generally to ensure comprehensiveness, consensus and acceptance. This approach helps to improve mutual trust and enhance ownership of the outcomes by all parties, thus facilitating adherence to, and enforcement of, the agreed codes and regulations.
- Work towards reducing the heavy media penalty fines and sentences as they have a chilling effect on media freedoms and freedom of expression. Furthermore, states should decriminalise offences such as defamation and publication of false information.
- African governments should consider legislating on the confidentiality of sources, as this would be important in building confidence among sources and guaranteeing safety of journalists.

4.2.2 Media Support Organisations

- Support duty bearers to undertake independent investigation and prosecution of all forms of online and offline crimes against journalists and media workers through strategic engagements. They should engage in strategic advocacy initiatives including media campaigns and capacity building activities aimed at promoting media freedom and safety offline and online.
- Convene regular meetings and engagements among journalists, civil society, and other stakeholders to discuss the state of press freedom and journalism safety. This would allow for greater awareness of the issues facing journalists and the media as well as drawing common strategies to advance journalism safety in Africa.
- Engage intermediaries and Internet Service Providers (ISPs) to review and update their policies and platforms to safeguard the safety and privacy of journalists, including through challenging government requests for their clients' private communications.
- Continuously engage with regional bodies such as the African Union, COMESA, SADC, EAC, ECOWAS and the ACHPR to promote media freedom and safety.
- Work with the African Union and the International Labour Organisation to ensure that journalists are adequately remunerated because economic empowerment is key to ensuring journalists' safety.
- Establish a Media Lawyers Network in Africa within the framework of the Pan African Lawyers Union, that would offer the necessary legal aid and support, including reviewing draft laws and policies, and legal representation.

4.2.3 Academic and Research Institutions

- Conduct in-depth and regular research on the pertinent issues on the nature and threats to press freedom and freedom of expression and generate empirical evidence that can support engagement with the various regional and continental bodies, as well as other stakeholders. This empirical evidence is also necessary to support interventions to ensure journalists and the media are protected against state excesses and attacks by non-state actors.
- Documentation and research on attacks against journalists should be done alongside observation of other human rights violations, such as threats to the right to freedom of access to information, privacy, assembly, association and participation in political and public affairs.
- Seek opportunities to contribute to the production of evidence-based research that will aid in the development and implementation of policy reforms and impactful advocacy strategies and campaigns for freedom of the press and the safety of journalists.
- Review the training curricula to include Safety of Journalists training courses. This should entail digital, physical and psychosocial safety, human rights and labour rights. The training should also address the gender dimensions of journalists' safety.

4.2.4 Media Houses and Journalists

- Media managers and owners must prioritise the safety of their journalists by providing them with appropriate safety training, equipment and tools; establishing safety practices and protocols in newsrooms; putting in place mechanisms for reporting violations against their staff to the appropriate authorities; and following up to ensure redress.

- Take ownership of UNPoA and utilise their communication skills to enlighten important actors such as the government ministries, parliamentarians and the judiciary, on safety issues and the need to put in place supportive mechanisms and policies.

- Study the UNESCO Director General's report and country reports on how different governments are working to address the issue of safety of journalists and put pressure on governments to not only submit these reports but ensure the reports are made public and acted upon.

- Continuously engage with regional bodies such as the African Union, COMESA, SADC, EAC, ECOWAS and the ACHPR to promote media freedom and safety.

- Media organisations, support institutions and journalists should explore the use of regional courts such as the East Africa Court of Justice, the ECOWAS Court of Justice and the African Court on Human and Peoples' Rights to seek redress where their rights are violated.

- Media houses should work towards deploying ombudspersons so as to increase public trust in media content and improve the relationship between the public and the media.

4.2.5 United Nations and the African Union

- Work together with other international bodies such as UNESCO, the Office of the United Nations High Commissioner for Human Rights, and other African, regional, and national bodies to push for the implementation of the UN Plan of Action on the Safety of Journalists and to address impunity by demanding action from national governments to fulfil their obligations under international human rights law to guarantee freedom of expression and media freedom.