



# Annual Freedom of Expression Situation in Africa Report 2018

*With funding support from:*

**ifex**

# Table of Content

Introduction .....	2
Methodology .....	3
Overview of Findings.....	4
Countries in Focus.....	5
Patterns of Violations.....	6
<b>Perpetrators of Freedom of Expression Violations.....</b>	<b>7</b>
<b>Victims of the Violations Recorded.....</b>	<b>8</b>
<b>Redress and Impunity of Violations.....</b>	<b>9</b>
<b>Other Developments and Observations.....</b>	<b>9</b>
<b>Conclusion &amp; Recommendations.....</b>	<b>12</b>

# Introduction

The International Covenant on Civil and Political Rights (ICCPR) explains the right to freedom of expression as “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 [one’s] choice.” This right, according to the ICCPR, is for all persons across the globe – “Everyone shall have the right to freedom of expression.” In Africa, the right to free expression is further guaranteed by the African Charter on Human and Peoples' Rights (the African Charter) and national constitutions.

As an enabler of several other rights, and an indispensable element in advancing democracy and good governance, the right to freedom of expression has been entrenched in these legal frameworks so it can be defended and protected from all forms of abuses.

Indeed, freedom of expression (FOE) is critical for democracy and sustainable growth. Both UNESCO and the African Commission on Human and Peoples' Rights (ACHPR) have described FOE as “a cornerstone of democracy.” This is because in democratic societies, freedom of expression makes it possible for people to participate in national discourse, share and receive information and ideas, and demand transparency and accountability from duty bearers about how public resources are managed to the benefit of all.

In Africa, impressively, almost all democratic governments on the continent have national constitutions that guarantee citizens’ right to freedom of expression. The right to freedom of expression is enshrined in the national constitutions of various African countries have bolstered transition from the state-owned monolithic media landscape that prevailed on the continent around the early 60s and late 80s, to a more liberal, plural and diverse media landscape. While the freedom of expression environment has generally improved, abuses of freedom of expression rights have eroded some of the gains made and undermined media independence generally.

In a number of countries on the continent, the right to freedom of expression is disregarded by many, especially, state security agencies, state officials and political party activists/affiliates. Journalists and other media practitioners in particular, as well as dissidents are often the major victims of FOE violations including , arbitrarily arrest and detentions, physical assault, kidnap, and even murder for reports published or comments made about powerful individuals. Even though such attacks are violations against constitutionally guaranteed rights, majority of the violations go unpunished, a grave and a deliberate omission that ends up emboldening perpetrators and nurturing widespread impunity in Africa.

The fighting against freedom of expression violations takes many forms and shapes as evident in the work of freedom of expression organisations and activists around the world. Whatever the approach, availability of credible database is always crucial in hammering home the issues and challenges identified. Availability of such datasets also contributes to guiding and shaping advocacy and policy interventions.

The African Freedom of Expression Exchange (AFEX), a continental network of some of the most prominent freedom of expression organisations in Africa, has been generating credible data on freedom of expression developments in Africa. As part of its freedom of expression advocacy efforts, AFEX documents and reports on-the-ground happenings around freedom of expression violations and other developments. The data gathered by the network are analysed into periodic publications to create awareness about violations and other issues; advocate for punishment and remedies; and guide policy interventions.

This report is a compilation and analysis of the data gathered from 30 countries in 2018. The data gathered covers incidents of freedom of expression violations (including protests) and other freedom of expression developments in the 30 countries. The methodology for data gathering and analyses is elaborated below. The report begins with an overview of the major findings from the monitoring and then distills into the specifics of the findings. The report also presents statistics about redress actions taken so far for the violations cited followed by other developments and observations noted during the monitoring period. The report ends with a number of recommendations to governments, security agents, media owners and African Union stakeholders.

## Methodology

The Annual FOE Situation in Africa Report is a publication by the African Freedom of Expression Exchange (AFEX). AFEX is a continental network of some of the most prominent freedom of expression and media rights organisations in Africa. The network is made up of 12 member organisations working in eight countries in East, West, Central and Southern Africa that are all members of the Toronto-based global free expression organisation, IFEX. While some of the member organisations work in specific countries where they are located, others work across regional blocs. AFEX's work is coordinated by a Secretariat which is currently being hosted by the Media Foundation for West Africa (MFWA) based in Accra, Ghana.

The report is compiled in parts through analyses of policy documents, research, and day-to-day monitoring of the FOE landscape on the continent. For purposes of this report, FOE is defined to include freedom of expression, access to information, and freedom of assembly – which are all provided for in international, regional and national legal frameworks.

On a daily basis, members of the network monitor, track and issue alerts, statements and reports on incidents of FOE attacks, redress, impunity, trends and other developments in their respective countries and regions. The monitoring reports from members are also published and publicised by AFEX on its website ([www.africafex.org](http://www.africafex.org)) and social media pages. Where it is possible for AFEX to establish credible contact to validate FOE developments, the network also issues statements on FOE happenings in countries where AFEX member organisations are not present.

Periodically, AFEX compiles and analyses all the monitoring reports into the FOE Situation in Africa Report. In compiling the periodic reports, AFEX complements reports from its members and those validated by credible sources with FOE reports published on the IFEX website by other freedom of expression and human rights organisations working in Africa.

This Annual FOE Situation in Africa Report is compiled using the quarterly and bi-quarterly FOE Situation in Africa Reports by AFEX. The data gathered were analysed using the Statistical Package for Social Sciences (SPSS).

The report is aimed at creating awareness about FOE developments on the continent; contributing to the body of knowledge on FOE in Africa; and informing advocacy and policy interventions.

## Overview of Findings

“Everyone has the right to” freedom of expression which is a fundamental human right as clearly stated in the Universal Declaration of Human Rights (UDHR), the ICCPR and the African Charter. Impressively, 53 out of the 54 African countries have signed and ratified<sup>1</sup> the African Charter. It is only South Sudan that had not ratified the African Charter at the time of finalising this report. Again, majority of African countries have national constitutions that guarantee freedom of expression. Whereas these provisions have contributed to improving the freedom of expression landscape in many of the countries on the continent, abuses against expression still persist.

In 2018 for instance, the AFEX network issued several alerts and statements drawing attention to a number of freedom of expression attacks on the continent. Altogether, the network reported **208** FOE violations in 2018. That is, an average of 17 attacks was recorded every month and about four, every week, an indication of the pervasiveness of FOE violations. The abuses were recorded in **30** countries. They were dominantly in the forms of physical attacks, and arrests and detentions. Unfortunately, some of these attacks against freedom of expression rights resulted in the killing of eleven people. A majority of the victims or targets of these attacks were journalists and protesters. Unfortunately, only *about 14* of the violations that were reported in 2018 received remedial actions. The rest remain unaddressed.

In the following sections, the general findings are expounded to provide details on the list of countries in which FOE violations were recorded, the patterns, perpetrators, victims, and redress of violations. In some sections, charts, tables and examples are provided to simplify or highlight the issues. A brief narration of the specific incidents of FOE violations recorded in the respective countries is presented in the periodic reports produced by AFEX in 2018. You may access these reports by clicking of the links at the last page of this report right before the recommendations.

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<sup>1</sup> <http://www.achpr.org/instruments/achpr/ratification/>



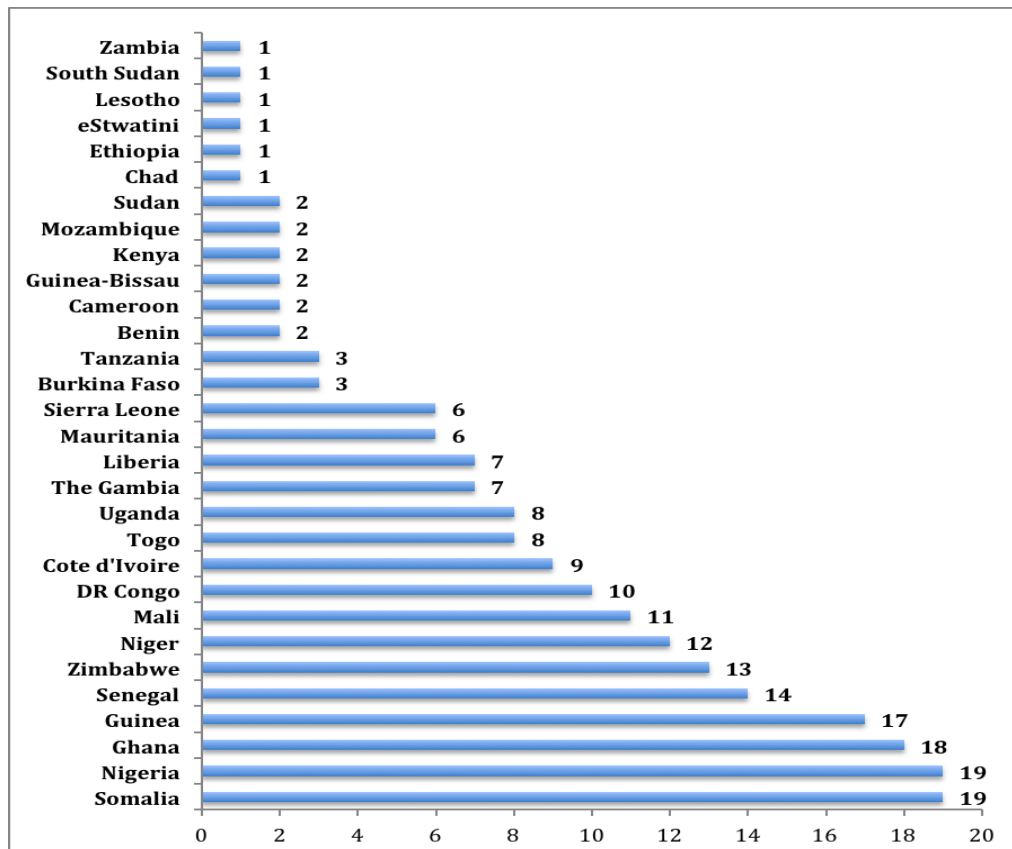
## Countries in focus

Generally, under military and/or dictatorship regimes, expression is often suppressed and voices of dissent attract various forms of harassments, including (but not limited to) threats and intimidations, physical attacks, arrests, detention, torture and in some circumstances, murder. Under democratic rule, however, freedom of expression is expected to thrive as it is a key cornerstone of democratic societies. Unfortunately, even though many African countries have transitioned from military rule to democratic systems of governance, and have signed and ratified a number of continental and international frameworks including the African Charter and the ICCPR that guarantee FOE, the tendency to mute critical voices and curtail free flow of information persists.

This, in part, explains why **30** countries across east, west, central and southern Africa recorded **208** FOE violations within one year. For all the **30** countries cited, freedom of expression rights are duly guaranteed in their respective national constitutions. Also, all of them, with the exception of South Sudan, have ratified the African Charter which has provisions for the respect of FOE rights.

As illustrated in Fig.1 below, **Somalia and Nigeria** recorded the highest number of FOE violations (19 each) followed by Ghana (18) and Guinea (17). The four countries accounted for 35 percent of the 208 violations. Countries such as Chad, Ethiopia, eSwatini (formerly Swaziland), South Sudan and Zambia, however, recorded an incident each throughout the reporting year.







*Fig.1: Countries cited for Freedom of Expression Violations*



## Patterns of Violations

Freedom of expression violations takes many forms. On the African continent, FOE violations usually take the form of physical attacks, arbitrary arrests and detentions, censorship, court sentences, and in some cases, the heinous crime of murder. The patterns or forms of violations are not necessarily countries-specific as similar trends are observed across a number of countries.

For the period under review, the nature and form of the violations recorded in the respective countries only varied in terms of the magnitude and frequency, but not in terms of the types of violations perpetrated. The two categories of violations that were commonly perpetrated across the countries cited were physical attacks, and arrests and detentions. About 35 percent (73 incidents) of the **208** FOE abuses recorded were physical attacks while 24 percent (50 incidents) were in the form of arrests and detentions. Unfortunately, eleven killing incidents were recorded in the course of the year. Below, the countries that recorded killings are cited.

Guinea	
Somalia	
Togo	
Liberia	
Senegal	
The Gambia	

Also, two journalists were kidnapped in the Democratic Republic of Congo (DRC) during the third quarter of 2018. Another violation that is gradually, but increasingly becoming prevalent across the continent is online violation which takes many forms – social media or internet disruptions and shutdowns; threats; arrests and detentions; and other forms of abuses which are meted out against individuals for their online expression. Additional information concerning all the types of violations recorded is provided in Table 2 below.

***Table 1: Types of Freedom of Expression Violations Recorded***

<b>Types of Violation</b>	<b>Frequency</b>
Physical Attack	73
Arrest & Detention	50
Threat	19
Seizure/ Damage of Property	17
Killing	11
Digital Rights violation	8
Ban/ Shutdown	8
Sentence	6
Denial to Assemble	4
Censorship	4
Repressive Law	3

Suspension	3
Kidnap	2
<b>Total</b>	<b>208</b>

## Perpetrators of Freedom of Expression Violations

The existence of FOE violations suggests that there are perpetrators and victims/targets. Whereas the victims/targets suffer the effects of the violations, the perpetrators are the actors who carry out the crimes. This section briefly reports on those responsible for the **208** violations recorded in 2018 while the next section focuses on the victims.

The nature of an FOE violation gives an indication of who the perpetrator is. Often, arrests and detentions are carried out by state security agents; sentences are pronounced by courts; shutdown and/or suspension of media outlets by regulatory bodies, and killings by unknown assailants and state security agents. Even though individuals and organised groups are occasionally culpable for physical attacks, state security agents are also culprits. State security agents are sometimes responsible for seizure of equipment, threats and denial to assemble as well.

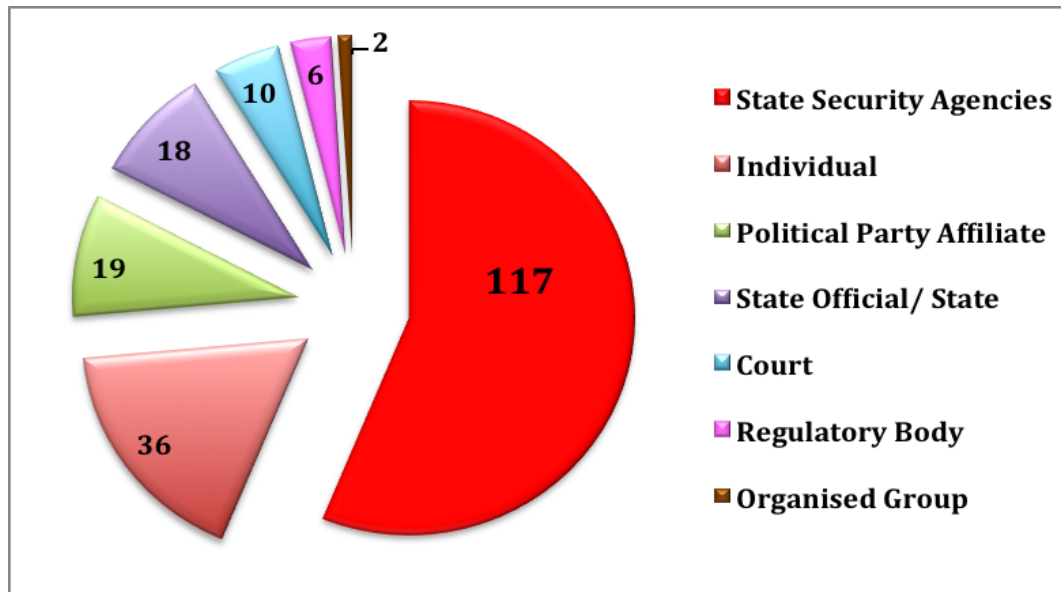


*Security agents patrol premises of Unity FM after closure on November 21, 2018*

For the period under review, seven categories of perpetrators were found to have carried out the **208** violations. As may be inferred from the preceding paragraph, state security agents were often found to be the culprits of many of the violations. In fact, more than half (56%) of the violations cited were perpetrated by state security agents followed by individuals who also carried out about 17 percent of the violations. In Fig.3 below, the seven categories of perpetrators are presented alongside the frequency of violations they carried out.



*Fig.3: Perpetrators of Violations Recorded*



## Victims of the Violations Recorded

Generally, FOE violations are used as tools for silencing critics, muzzling expression, and curtailing information flow. This is because acts of harassment, threats, physical attacks, arbitrary arrests and detentions, among others, tend to intimidate and put fear in people. Not surprisingly therefore, majority of the people or institutions that suffer FOE violations are journalists, media houses, and critics.

In 2018, a lot of journalists, individuals (particularly protestors), media houses and other dissidents were affected by the violations recorded. Unfortunately, many of the people who suffered the impact of some of the abuses could not be captured in the monitoring as they could not be physically and/or directly associated with the violations. For instance, it is often not easy to determine the exact number of people affected by an internet disruption or shutdown so it can be included in a report like this. Similarly, it is difficult to come up with the total number of protesters who may have been affected by being denied the opportunity to protest or the total number of victims of police brutalities during a clash with demonstrators as only those injured or killed are the ones counted and reported on.

The figures quoted in this section, therefore, refer to those who directly suffered from the **208** violations recorded. A total of **187** journalists and media workers, media houses and other individuals suffered directly from the violations reported in this document. Specifically, about 161 of the 187 victims were journalists and media workers; 17 were media houses; and the remaining were other individuals or the media landscape in general.

A further analysis of the data showed that more males were directly affected by the violations than females. In particular, 133 of the 161 journalists and media workers affected by the violations were males; 13 were females while the remaining 15 were

of both sexes. Eight of the people killed in 2018 were male journalists. The other three were protesters who were expressing their grievances to authorities.

## **Redress and Impunity of Violations**

Freedom of expression violations are criminal in nature because they constitute a breach of international, continental and national-level legal provisions. Violations of such legal guarantees could, therefore, lead to prosecutions. However, many of the FOE violations recorded on the continent have neither been investigated, prosecuted, punished nor remedied. The lack of redress for violations perpetrated against journalists and media workers; media houses; and other individuals who exercise their right to expression remain one of the biggest challenges to FOE promotion in Africa.

When perpetrators of FOE violations are not punished, it goes a long way to nurture a culture of impunity. Ultimately, impunity bolsters perpetrators and silences voices of dissent. It also fosters a lack of confidence in the state's ability to adequately respond to violations and serve justice to victims. This may ultimately lead to a situation where people will not be reporting FOE violations to authorities thinking that it would yield no results. This is likely to cause self-censorship among journalists and citizens.

The impunity situation on the African continent did not change much in 2018. Many of the violations cited did not receive any redress. Specifically, out of the **208** violations recorded, only 14 (6.73%) received redress. The remaining 194 were still unresolved at the time of finalising this report.

The 14 redress actions comprised nine incidents of release from detention, two incidents of reopening of media houses that had been shut down, two separate cases of suspension from post of two individuals who committed FOE violations, and the return of seized documents. In addition to the 14 redress actions taken, four separate apologies were rendered over three separate FOE violations which took place in Ghana and Nigeria. One public condemnation was also recorded in Ghana over an assault of a journalist. Sadly, none of the eleven killings recorded in 2018 has been resolved.

## **Other Developments and Observations**

The year 2018 recorded some notable incidents that impacted (both positively and negatively) the freedom of expression and press freedom landscape in Africa. In March 2018, Tanzania enforced the “Electronic and Postal Communications Regulations 2018” which imposed a one-time fee of Sh2.1 million (\$920) and annual fee of Sh1 million (\$438) on bloggers, podcasters, etc. This law resulted in forcing a number of Tanzanian online content creators to go offline, and shut down their businesses.

Exactly four months after (July 2018), the Ugandan government also passed a social media tax which requires online users to pay, on a daily basis, a tax of Ush200 (\$0.05) to access WhatsApp, Twitter, Telegram, Snapchat, Facebook, YouTube, and other over-the-top (OTT) services. Even though it was foiled that the tax was to help improve the country's domestic revenue, it is widely known that the move was also intended to suppress opposition and dissidents.

In the same month, the Béninoise government declared its intension to tax users 5CFA francs (\$0.008) on every megabyte of data used on Facebook, Twitter, Instagram and other social media apps while internet calls were to be taxed 5 percent on original cost. The planned tax was, however, withdrawn following massive push back from all angles. This made Benin the first African country to withdraw a social media tax.

A month later, Zambia also made known its intentions to tax 30 ngwee (\$0.085) on all Voice over IP (VoIP) calls – calls made over internet telephony services such as WhatsApp, Viber, Skype, etc. Even though a law had not been passed to that effect at the time of finalising this report, plans to do so had not been fully aborted.

Liberia was one of the few countries on the continent that recorded some positive development in 2018. On July 3, 2018, the lower chamber of the House of Representatives (Parliament) of Liberia [unanimously approved](#) a bill to decriminalise libel. To further demonstrate their commitment to the issue of press freedom, the lawmakers also voted to maintain 'Kamara Abdullah Kamara Act of Press Freedom' as the official name of the law when passed, in honour of the former President of the Press Union of Liberia who died earlier in 2018.

In the last quarter of 2018, an important headway was made concerning the murder of Norbert Zongo, a Burkinabe investigative journalist, some 20 year ago. Specifically, on December 13, 2018, a court in France made a landmark ruling by authorising the extradition of the prime suspect in the murder case, Francois Compaore, to Burkina Faso to face trial. The ruling was indeed a significant step towards resolving the murder case.

Regarding the issue of safety of journalists and impunity for FOE violations in Africa, AFEX held a one-day meeting to brainstorm on the development of an Action Plan on the safety of journalists in Africa on the sidelines of the network's GM in November 2018. The meeting of brought together 21 participants including 7 local journalists from Ghana and two representatives from ARTICLE 19 Brazil and ARTICLE 19 Mexico. The meeting deliberated on the safety of journalists' situation in Africa and how to address the challenges identified. At the end of the meeting a draft action plan on the safety of journalists was put together by participants. Also, a resolution expressing deep concern about the wave of attacks perpetrated against journalists was issued urging African governments and stakeholders to commit to promoting safety of journalists. AFEX also participated in a number of regional meetings including the Inter-regional Forum on Strengthening National Monitoring and Reporting Mechanisms for the safety of journalists in Africa organised by UNESCO in November 2018. It was recommended that participants at the meeting continue to engage stakeholders on the continent to ensure the establishment of a Working Group on Safety of Journalists by the African Union.



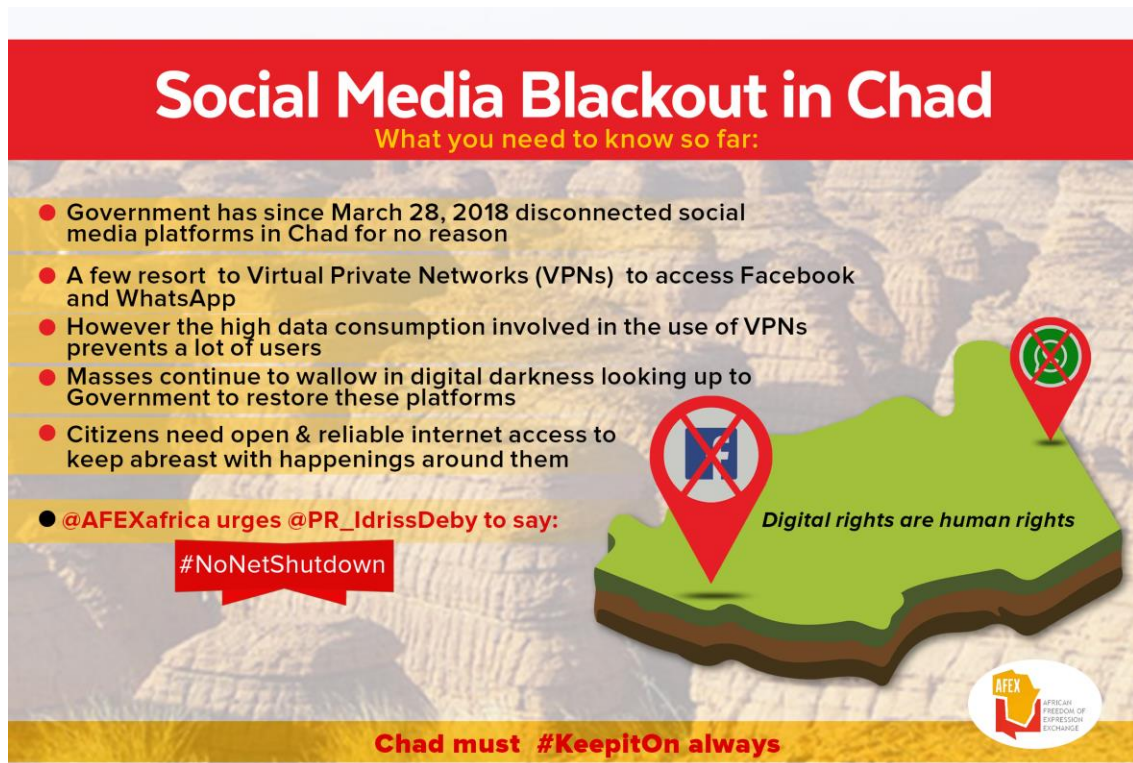
*Participants at the inter-regional forum on national reporting and monitoring mechanisms in Africa in Addis Ababa*

Also, another major event that happened in 2018 was a media-police engagement in Ghana in July. To help improve the safety of journalists' situation in Ghana, the Media Foundation for West Africa (MFWA), in collaboration with other media stakeholders, held a [forum with the Ghana Police Service](#) on strengthening media-police relations for safety of journalists in Ghana. The forum was held to address increasing attacks against journalists and the issue of impunity in Ghana.

Besides the above-mentioned developments in the landscape, a number of observations, largely in the form of challenges were also made during the monitoring period. Some have been detailed below.

The issue of network disruptions and/or shutdowns, especially during elections and public protests, continues to pose a threat to freedom of expression, access to information and assembly online even though it is a contravention of international legal instruments and national constitutions of affected countries. During the monitoring period, for instance, DRC shut down internet and telephony services during the country's presidential elections. In the case of Chad, social media was blocked from March 2018 till the end of the year as a result of public protests. Even though some civil society organisations hulled the government to court over the protracted social media blackout, at the time of finalising this report, social media was still blocked in Chad. Aside the internet shutdowns and social media disruptions, online social media posts and comments, and other online expressions by journalists and members of the general public are increasingly being penalised also.





*An infographic highlighting how Chadians are circumventing the social media blackout*

Despite the increasing reports of attacks on online expression, findings of the [Annual Report on the State of Internet Freedom in Africa for 2017](#) launched by AFEX during the monitoring period revealed that there was an increasing demand for citizens to express themselves online despite the introduction of diverse repressive measures by African governments to curtail online expression.

Another observation made during the monitoring period was the lack of willpower on the part of governments in the region to protect the public’s right to expression, access to information and assembly. This is evident from the number of redress actions taken – out of 208 violations only 14 have been addressed. The lackadaisical approach on the part of state institutions in taking up the violations reported and investigating to get perpetrators punished or compensations paid seem to suggest that governments and state authorities are not interested in stamping out violations against expression.

## Conclusion & Recommendations

The freedom of expression and press freedom landscape in many African countries has seen significant improvements since the late 80s and early 90s when many military regimes gave way to democratic systems of governance. Following the transition to democratic rule, many African countries ratified a number of international instruments that provide safeguards for fundamental human rights, including freedom of expression and access to information. The countries also began working with national constitutions most of which guarantee freedom of expression and access to information rights along with other human rights.



While the democratic dispensations have expanded the frontiers of expression, abuses such as arbitrary arrests and detentions, physical attacks, threats, killings and the application of inimical laws continue to suppress expression in a number of African countries. In 2018, the AFEX network and its Secretariat coded **208** FOE violations from **30** countries on the African continent. Close to a third of the violations were in the form of physical attacks while a little over a quarter were arrests and detentions. The year recorded eleven killings with eight of the victims being journalists. In fact, journalists were the major victims (86%) of the **208** FOE abuses cited.

Unfortunately, state security agents, the very people tasked to protect the public from abuses, were the worse offenders. They perpetrated more than half of the violations cited. Regrettably, many of the violations remain unresolved. Out of the **208** violations, only **14** received redress in addition to four apologies and one condemnation. It is unclear whether state security agents who are expected to lead investigations into the violations and prosecute accordingly have the will power to do so as they themselves, are the major culprits. The challenge of unresolved violations (impunity) threatens journalists' safety and engenders self-censorship. It also emboldens perpetrators while killing the confidence people have in state security institutions.

The online violations reported during the monitoring period suggest that some African governments are gaining grounds in limiting spaces for expression online, especially through taxation and shutdowns. Specifically, Tanzania and Uganda enforced varied forms of social media taxes and Zambia is still considering taxing VOIP calls. Even though Benin attempted a social media tax, the intention was withdrawn through massive push back. Beside the rising cost of being online (which is pushing some people off the internet) through taxation as is currently being experienced in Tanzania and Uganda, internet and social media disruptions and shutdowns, coupled with attacks against online expression, are also curtailing information flow and suppressing expression in some countries.

Undoubtedly, the findings above regarding the number of FOE violations cited, the fact that state security agents are the major perpetrators, and the fact there is gross impunity in resolving the attacks, point to the fact that the right to FOE is under serious attack on the continent. The incidents of online violations and social media taxation also show that FOE is not only under attack offline, but also online. These issues need urgent attention from all stakeholders to ensure that peoples' rights to freely express themselves hold opinions and seek information, which are duly guaranteed in national, regional and international legal frameworks, are protected and respected. A number of recommendations have, thus, been made below to contribute to ensuring that each and every individual on the African continent is free to express him or herself in a safe and free environment.

#### **African Governments should:**

- Ensure that the right to freedom of expression and access to information which are legally guaranteed by national, regional and international frameworks are respected and upheld by all, including state security agents.

- Address the impunity challenge by ensuring that violations against freedom of expression rights are thoroughly investigated and severely punished to serve as deterrent to others.
- Train security agents on non-violent crowd control measures to deploy during demonstrations
- Establish effective, multi-stakeholder national mechanisms to coordinate issues of safety of journalists in Africa.

#### **Security agents should:**

- Uphold the rule of law by protecting and respecting people's right to freely express themselves (including through protests) and access to information.
- Investigate all reported incidents of attacks against journalists, activists or individuals and work with the judiciary to punish perpetrators of FOE violations.
- Refrain from using excessive force against journalists, demonstrators, etc.
- Ensure that journalists and other media practitioners carry out their work freely
- Organise routine trainings on safety of journalists and non-violent crowd control for security agents.

#### **Media Owners/Journalists**

- Prioritise the safety of all media workers at all times. Support journalists with safety tips or equipment for covering potentially dangerous issues.
- Use media platforms to educate the general public about the right to freedom of expression, access to information and assembly, highlighting the role of the state and state security agents in promoting and protecting these rights.
- Ensure that attacks against journalists and other media workers are thoroughly pursued till justice is served.

#### **African Union**

- Set up a coordination mechanism on safety of journalists at the continental.
- Ensure that Member States adhere to regional and international frameworks such as the African Charter on Human and People's Rights and the Universal Declaration for Human Rights.
- Sanction Member States that continue to violate the freedom of expression, assembly and access to information rights of their citizenry.

#### **African Commission Special Rapporteur on Freedom of Expression and Access to Information**

- Undertake fact-finding missions to Member States that systematically violate the right to freedom of expression and access to information (e.g. Nigeria, Somalia and Ghana) and make appropriate recommendations.



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