



iSPEAK

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YOUR VOICE
OUR FREEDOM**

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Liberating information from colonial masters and current governments

On 28 September the world will commemorate the **International Day for Universal Access to Information**. This day has special significance for Africa, since global recognition of the day is the result of sustained lobbying by African access to information activists through the **African Platform on Access to Information** (APAI). So, besides welcoming spring, there is much more to celebrate on the continent. Yet, Gilbert Sendugwa reminds us that African struggles were and still are struggles for transparency and informed participation, as he explores progress made in guaranteeing the **right to access to information for citizens in Africa**.

Podcasting is taking off on the continent. Natasha Fuyane describes how the Zimbabwean diaspora is using podcasting and new media to own their identity and remain connected with home.

In our own **iSPEAK podcast** veteran journalist Khadija Patel, former editor of South Africa's Mail and Guardian, makes a passionate argument for a global fund to sustain public interest journalism.

On a more sombre note, last week's announcement of the newly-broached alliance between The Gambia's National People's Party (NPP) and former president Yahya Jammeh's Alliance for Patriotic Reorientation and Construction (APRC), for the upcoming December presidential election, came as a thunderbolt to those who worked for decades against the brutally repressive regime of Jammeh and his ruling party.

This unexpected shift begs reflection after a read through of Saikou Jammeh's analysis of media law reforms during The Gambia's transition from dictatorship to leanings towards democracy.

Enjoy this and more in our September edition of iSPEAK.

Remember, the iSPEAK newsletter is free so please share the word far and wide with others who may have an interest in reading the analyses provided, and who may wish to participate in our monthly event. We are focused on providing the African context and narrative on freedom of expression issues, and look forward to providing challenging views on current debates that inform or change the way you think.

Make sure you don't miss out on our monthly edition by signing up on **WhatsApp** or joining the **mailing list**. Feel free to get in touch with us via email on info@ispeak.africa.

See you next month.

The iSPEAK team

My Voice | Your Voice | Our Freedom

iSPEAK

**MY VOICE
YOUR VOICE
OUR FREEDOM**

INTERACTIVE INFOGRAPHIC: ACCESS TO INFORMATION IN AFRICA



Check out the list of countries with access to information laws which we compiled in September 2021. This is the only updated list that is online right now. Click on a blue country that has information available to get more details on its laws or download the legislation.

African struggles were and still are struggles for transparency and informed participation

By Gilbert Sendugwa

Secrecy was a weapon used by colonial administrations so they could govern without impactful challenges by the African populations they were suppressing. Thus, they established legislation to ensure that local officers working for them did not disclose information that could potentially trigger a challenge to their administrations.

In many respects struggles for independence in Africa were also struggles for transparency and informed participation. That's no surprise. After all, access to information is intended to inform and empower participation and expression in a democratic process.

In democratic processes, when citizens receive information or fail to receive information, they are expected to express themselves on either the contents of the information they receive or the failure to receive such public information. Unfortunately, several African governments restrict these liberties, failing the intention of citizens accessing public information.

Over the years, the Africa Freedom of Information Centre (AFIC), through its body of work and research, has realised that implementation of an access to information law is determined by the capacity of individuals and institutions, on the one hand, and political will on the other.

Seven years after the adoption of the Access to Information Act in Uganda, government agencies frequently refused to grant access to requested information. This goes hand in hand with the low level of demand for information requests owing to low levels of uptake by citizens.

Over the last few years there has been a considerable shift as the African Charter on Human and Peoples' Rights (ACHPR), develops a strong policy framework to strengthen the right of the public to gain access to information, as well as an insistent demand for proactive disclosure of information, held by public and corporate bodies with relevant public information deemed necessary for the public.

At a continental level, a strong policy framework is being established that strengthens rights of the public to gain access to information that is their right.

Through its **treaties** - the **African Charter on Human and Peoples' Rights, African Union Convention on Preventing and Combating Corruption, African Charter on Democracy, Elections and Governance, African Charter on the Values and Principles of Public Service Administration, African Youth Charter** and the **African Statistics Charter** - the African Union underscores the value of public access to information in addressing Africa's development challenges, and positioning the continent on the highway to development.

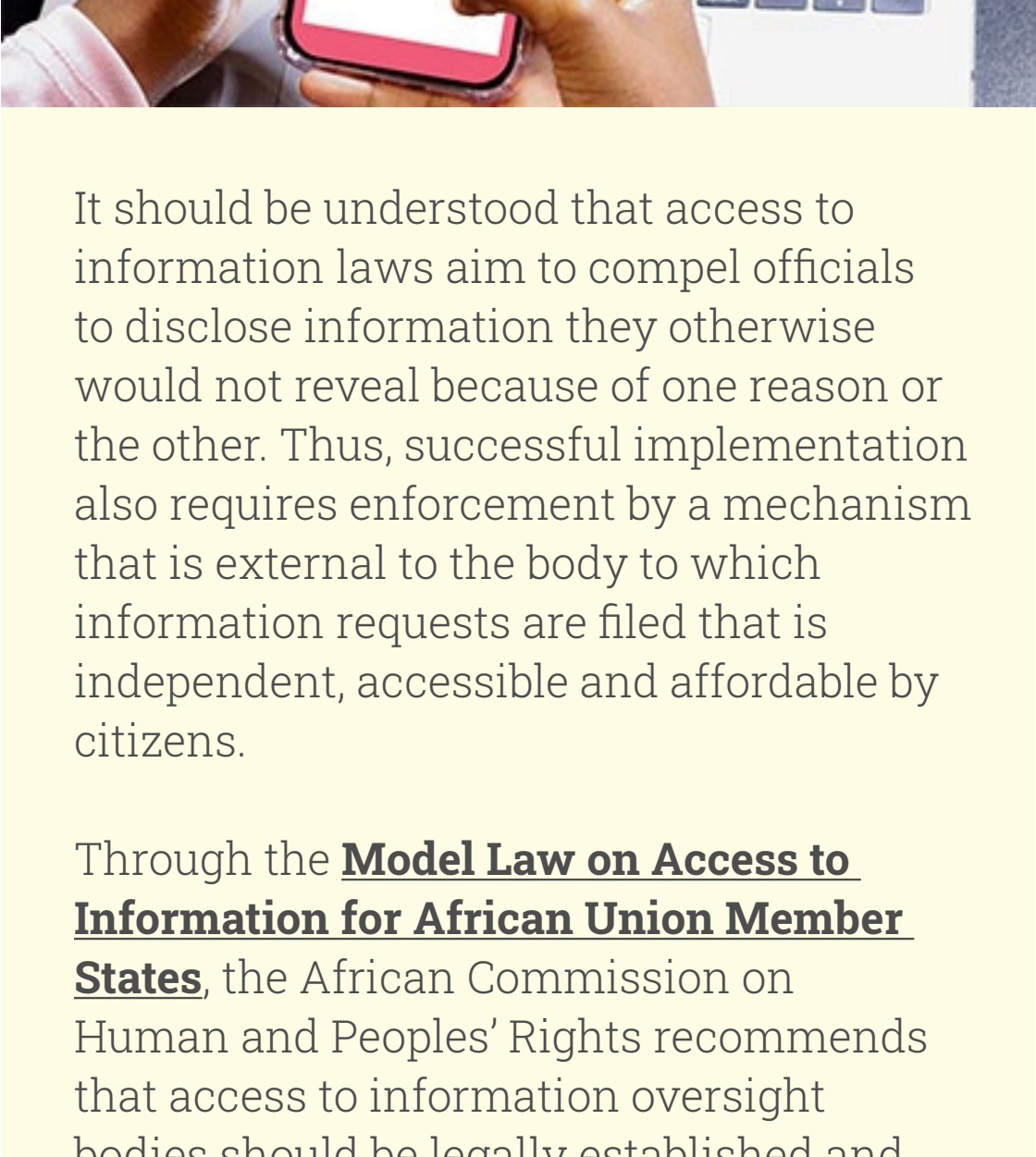
Incentives and sanctions determine the extent to which a piece of legislation can be implemented. Incentives can include training and awareness raising of officials responsible for implementation, facilitating them with appropriate equipment and tools, clarifying roles and responsibilities, appraising officers on specific obligations prescribed within the law and applying a rewards system for better performance of assigned roles.

Rewards may include official recognition for performance, opportunities for training, prizes, promotion, etc. On the other hand, an effective sanctions regime requires the establishment of a clear mechanism determining compliance and appropriate reprimands for failure. This may include caution, suspension, demotion, dismissal or other forms of reprimand. Beyond incentives and sanctions at an individual officer level, it is critical that the same applies at the broader institutional level.

Effective implementation of ATI laws involves establishment of procedures for the agency to follow in receiving and responding to information requests, proactively disclosing information, allocating personnel, and providing equipment to support implementation, improving records management and ensuing timeliness in responding to information requests. Political will thus goes beyond receiving and responding to information requests, to creating the necessary capacity and support environment for effective implementation of laws.

AFIC conducted training for public officials and CSOs in four of Uganda's districts. Twelve weeks after the initial training follow-up workshops were held to obtain feedback on how participants had used knowledge obtained from the training. Results revealed that there was increased demand for information and improved responsiveness by respective government agencies. One the side of civil society, at least 3 in every four participants that attend had filed an information request and 71% of these requests had been responded to by respective agencies. Our conclusion from these findings was that capacity of citizens and of public servants was critical in fostering implementation of the Access to Information Act.

Capacity alone is not sufficient. Examination of information requests and feedback revealed that despite understanding the law and information requests being properly filed, some agencies would not respond to certain requests especially where significant breach of accountability or procedures was suspected, raising concerns around political will.



It should be understood that access to information laws aim to compel officials to disclose information they otherwise would not reveal because of one reason or the other. Thus, successful implementation also requires enforcement by a mechanism that is external to the body to which information requests are filed that is independent, accessible and affordable by citizens.

Through the **Model Law on Access to Information for African Union Member States**, the African Commission on Human and Peoples' Rights recommends that access to information oversight bodies should be legally established and mandated to, among others, monitor and regulate implementation by public and covered private bodies, hear appeals, audit compliance, receive annual reports from MDAs, impose fines for non-compliance, promote public awareness, make annual reports and provide advice on how to strengthen the advancement of the right to information in respective countries.

In **Africa**, oversight and enforcement of access to information laws is by different entities ranging from national human rights institutions (Guinea), ombudsman (Ethiopia, Niger and Rwanda), attorney general (Nigeria), parliament (Uganda), monitoring commission (Angola) independent information commissioners (Liberia, South Sudan, Sierra Leone) and information regulator in South Africa.

Irrespective of the name of institution or agency where the oversight mandate lies, the need for resources and capacity by respective RTI **oversight authorities** is critical across the board.

In Liberia, two years after the establishment of the Information Commission, Centre for Media Studies and Peace Building (CEMESP) filed an appeal to the Country's Independent Information Commission. The Commission declined to hear the appeal on account of lack of funds. CEMESP then filed an appeal to the Supreme Court which in turn ruled against the Information Commission. It is thus not enough to have an oversight mechanism in law. It should be independent, capacitated and prepared to play its role

Indeed, all right to information oversight agencies across Africa face challenges of one form or the other. Reporting to parliament is one of the opportunities available for these bodies to engage on addressing their challenges. The Sierra Leone Information Commission as well as the South African Human Rights Commission effectively used this platform to explain the importance of their oversight role, shine light on agencies that don't comply with RTI obligations and highlight resource needs of these information commissions.

In an agency, people especially junior officers see their seniors breach the law or abuse their positions. Whereas many access to information laws in Africa expressly state that individuals disclosing information about such breaches are protected, in practice this has been a challenge. This greatly undermines the realisation of access to information goals.

Gilbert Sendugwa is the executive director of Africa Freedom of Information Centre (AFIC), the largest and leading network of CSOs promoting the right to information, transparency and accountability across Africa.

Conversations of Home: *Connecting to home, identity and self, through new media platforms*

By *Natasha Fuyane*

There is an unexplainable confidence that comes with knowing who you are and where you come from. Having now spent more years living outside my country of birth, Zimbabwe than I have in it, the United Kingdom has been my adoptive home since 2002 and one that I embrace. However, as with most migrant stories, my longing for and connection to the place I call home has deepened.

Leaving home as a late teen and settling into a foreign land, the only thing I wanted was, to assimilate with my age-mates, make friends, and downplay my “foreignness”. After all saying you were from Zimbabwe in the 00s was not considered cool. This, for more times than I cared for, meant clarifying where in the world Zimbabwe was located or better yet having to listen to academic Pan-Africanist’s take on how great Robert Mugabe was or how terrible he was.

Carrying the politics of one’s country everywhere would weigh down most people, least of all a young person that just wanted to enjoy life like her peers. In addition to the political slant that conversations would take when I mentioned my place of birth, it was the fact that there was still very much a culture of not speaking about politics amongst family and friends. There is a recorded history of individuals who have been vocal about misgovernance suffering at the hands of state-sanctioned violence. So then silence became a self-preserving mechanism and one that was carried over borders - to the new places we now called home. As a young Zimbabwean, and coming from that prevalent culture of silence meant that I never had the agency to freely engage on issues that were happening at home.

The few times I engaged on issues that were happening at home, I came up against the flagship rebuttal “but you’re not on the ground”, making it difficult to give a comeback when indeed you are not on the ground.

So for many Zimbabweans, there was (and still is to a some extent) a geographical divide determining the extent one could contribute to the national discourse. Fast forward to this age; with the acceleration of the digital revolution, particularly the increased access to the internet and more so social media platforms, the digital space has reduced that geographical divide.

Podcasting and New Media

In 2019, Xolie Ncube and I launched Girl In Skies Podcast. Girl In Skies - a play on the word Skies, a triple entendre of sorts (representing travel, airwaves, and a homage to our city of birth, Bulawayo, which is at times referred to as Skies because of its beautiful blue skies). We started the Girl In Skies podcast because we are passionate about carving out a voice for the Zimbabwean diaspora community and filling in that gap between home and its many citizens scattered all over the world.

We did not need to be politically connected or to have journalistic accolades to start a podcast.

Why podcasting?

This was a medium that we enjoyed and consumed. The attraction to podcasting was its low barrier to entry. We were two friends having conversations and simply needed a home for these conversations. We did not need to be politically connected or to have journalistic accolades to start a podcast. Also, housing these conversations via a podcast meant there would be no policing of our opinions. Our location also offered safety as we did not have to worry about some of the very real dangers that individuals in Zimbabwe face when they talk about the state of politics and human rights issues.

We were not looking to speak from a point of authority about things that were happening “on the ground” but felt strongly that there was a space for the diaspora perspective to be articulated and heard. We cared deeply about home, we cared about the high unemployment, the arts, the lack of access to basic healthcare, the stifling of political freedoms. We cared, not only because it affected our families at home, but also because it affected us. Ours, was a different angle to the conversation because although we were shielded from some of the harsh effects, we were still impacted. For example, the high unemployment in Zimbabwe means that many in the diaspora have to financially support their families (Black Tax) and be the buffer for any emergency costs that may come up. These types of conversations allow for sharing of ideas and solutions to issues specific to people in the diaspora. They are also a way of sharing the diaspora experience with people living in Zimbabwe, and by using these conversations we can find common ground.

Connecting across borders, generations and cultures

Since its launch, Girl in the Skies podcast has grown to thousands of weekly listeners per episode. A significant cohort being the Zimbabwean diaspora located in over 26 countries. The podcast is a weekly staple of entertainment, news, and our take on events happening at home and beyond. The reception and feedback showed that there was an appetite for new voices, a different perspective, and something innovative. Our podcast covers light-hearted issues as well as conversations on the political landscape in Zimbabwe and beyond. We have also covered issues such as lobola (marriage rites and payment of bride price), the 1980s killing of the minority Ndebele community known as Gukurahundi genocide, and more.

Ours, was a different angle to the conversation because although we were shielded from some of the harsh effects, we were still impacted.

There were two things we had not anticipated though. Firstly, that so many people based in Zimbabwe would listen and engage with the podcast, and secondly, that so many second-generation immigrant Zimbabweans would listen to the podcast. The most interesting revelation has been how educational and informative some of our younger listeners have found it. A significant number of these listeners have been born and raised outside of Zimbabwe or moved from Zimbabwe at a very young age. They have been able to get a better understanding of our history and some of the traditional practices.

The fact that people in Zimbabwe are also listening to the podcast shows the role that new media is playing in reducing the geographical divide and connecting people across borders.

This means that people at home are tuning in to our perspectives on issues happening at home, as well as the complex dynamics and tensions between the diaspora and our roots. These are likely to be better received from podcasters that people do not know at a personal level than they would be from family members. The podcast also serves as a bridge between families in Zimbabwe and those in the diaspora. We can have uncomfortable conversations around black tax, dating, marriage, and many other issues affecting people in the diaspora. These conversations are also likely to be considered when they are not charged with the emotion that comes with the very complex family dynamics of transnational families.

Cultural Identity

The importance of cultural identity can never be overstated. It is arguably even more important when one is planted in a society where theirs is not the dominant culture. There is a danger of having the illusion of inclusion - a concept we have unpacked in our podcast. In summary, the illusion of inclusion is where one grows up believing they are part of the fabric of the society they live in, only to have a rude awakening along the way. This happens when the dominant society explicitly shows you, in no uncertain terms, that you are not part of the fabric. This could be through lack of career opportunities, systemic and overt racism; and other isms. To mitigate against the harsh impact of this, the next generation must have a connection with their cultural identity and the podcast is serving that purpose.

Conversations and other platforms for expressing different perspectives are important. Conversations are the home of ideas, ideas allow for innovation and push societal thinking. There is space for various voices to be heard, despite geographical location, and I am glad I have found mine.

Natasha Fuyane is a writer and podcaster, among other things. She is a Zimbabwean living in the United Kingdom. She is passionate about amplifying African diaspora issues and creating spaces for conversations. You can listen to her every week on Girl In Skies podcast and can find her on twitter at @malaikadiva.

Letter to the Editor from an African Queer

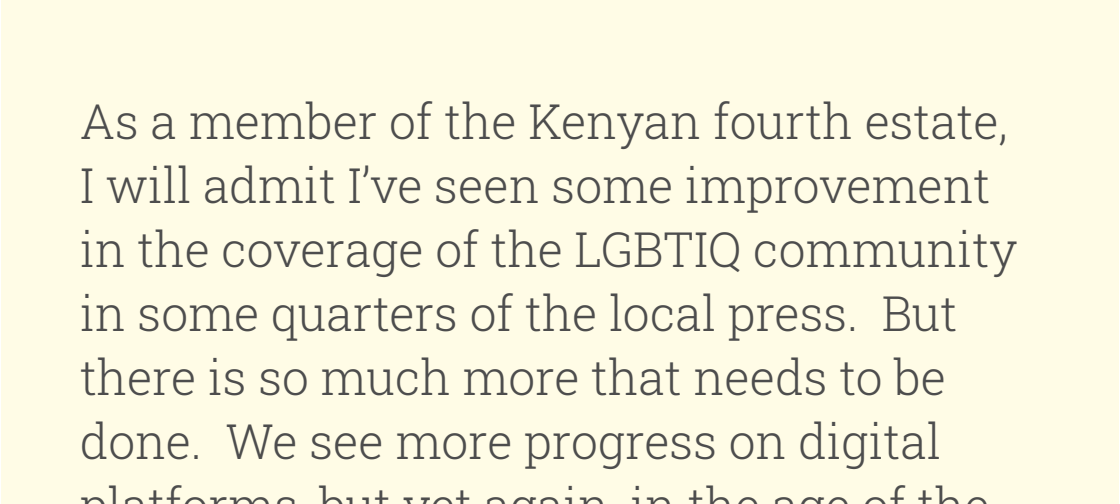
By *Kevin Mwachiro*

Dear Editor,

I am an openly gay man based in Kenya. I am a proud African and to cite the words of the late South African President, Thabo Mbeki, “I am born of a people who are heroes and heroines, of a people who would not tolerate oppression. I am of a nation that would not allow that fear of death, torture, imprisonment, exile or persecution should result in the perpetuation of injustice. I am an African. I am born of the peoples of the continent of Africa.”

I want to ask why your newsroom seems to disregard, misrepresent and misinform your audience of heroes and heroines from this very continent that you and I call home. They are no different from you and me. Let me put it like this; I am no different from you; all I do is love differently but love nonetheless. Africa’s LGBTIQ community are part and parcel of the very fabric of this continent.

Even as we commemorate 30 years of the Windhoek Declaration, we are still primarily marginalised by the media, unless we are portrayed in a negative or sensational light. We are often shamed, ridiculed beaten, or bloodied when we do get any coverage.



As a member of the Kenyan fourth estate, I will admit I’ve seen some improvement in the coverage of the LGBTIQ community in some quarters of the local press. But there is so much more that needs to be done. We see more progress on digital platforms, but yet again, in the age of the internet, we are also seeing those same platforms being used for cyber-attacks, bullying and homophobia. Even as I write this, it saddens me that whenever there is a positive story about us, there are voices that are quick to silence and even threaten. You watch in silence as they negate any form of inclusivity, are discriminatory and devoid of progressive thinking, and it takes us several steps backwards.

I am an admirer of the African press. I recognise the role it has played in fighting colonialism and single-party rule, in promoting democracy and holding governments to account. There was a time here in Kenya that The Nation and Standard newspapers acted as the official opposition, speaking truth to power. When the Weekly Review, I remember as a child, would make its way home thanks to my father, I found it too wordy, with hardly any cartoons or content for a younger audience, but I remember how its then editor, Hillary Ngwe’no, was revered.

There were names like Bedan Mbugua, who edited Beyond Magazine, which highlighted the massive rigging in the 1988 general elections. Even during his time as editor at The People, they pushed the envelope in an era that is seen as seminal in Kenya’s history. Gitobu Manyara, and his magazine, Nairobi Law Monthly, is another name from that time when the pen challenged the sword.

As you and I know, the Africa of the 80s lived under an autocratic and heavy sword. But during this period, many journalists dared. They risked much to tell the truth.

Editor, I don’t know whether you remember any of the names like Drum, Bona, Pace, True Love? Even as I write to you, I am filled with immense pride at their legacy and the footprint they left within me. Drum and True Love magazines were weekly staples (thanks to my elder brother), and it was within those magazines that matters of not just entertainment, fashion and lifestyle were covered, but they were brave enough to talk about sexual and relational issues. Drum had the Dear Dolly advice section at the back of the magazine that was a must-read. There was the rare occasion when homosexuality came up, and for a young man like myself, my eyes were being opened to a different form of sexuality. Dolly’s advice was far from PC, but I knew there were individuals who loved differently. I will forever remember the edition where one of our national goalkeepers rubbished claims about being homosexual. The mere fact that a taboo topic got into print was revolutionary, and it wasn’t about a foreigner. It was about one of our own. There were other Kenyan magazines like Men Only, which were ground-breaking in their content. The magazine bordered on the erotic with cartoons that had men and women in fine and solid African form that left very little to the imagination. You must remember this was all happening when my emotions were all over the place, and I had no one to ask for guidance or help. I was alone, and these magazines offered me the opportunity to tantalise my pubescent mind.

Editor, please indulge me, for I know I have gone via Mogadishu and Goma to get from Nairobi to Dar es Salaam. But as we commemorate 30 years of the Windhoek Declaration, as a media practitioner and consumer, I feel that there are still individuals like me who are missing in the newsrooms, on screen, on the radio and in the press. Our digital media seems to be making more headway, even though we know affordable access to data is still a privilege for many, our narratives and realities are normalised and visualised.

It is on the web that our African queerness comes out of the closet. There are an increasing number of podcasts, vlogs, Instagram pages and Twitter profiles that celebrate a more sexually and gender diverse Africa. Podcasts like Afroqueer, produce insightful and thought provoking episodes. The Rustin Times from Nigeria, covers all matters LGBTIQ from across the continent, Holaa! Africa has established itself as the website that celebrates women and gender non-conforming individuals from the continent. These are just a few.

Editor, don’t miss this ‘Africa Rising’ bus that is being driven by our younger people. I urge you to get back to educating, informing, and entertaining audiences and helping them see the various realities from our four corners. Too often, we hear the call for the bottom line or the push to go viral rather than the call for justice and for what is good, right and fair. The injustices that are taking place against LGBTIQ Africans need to be highlighted. Laws that still criminalise same-sex relations, and politicians who propagate lies against our own fellow Africans should be called out.

I call upon you to be on the right side of history. This continent is changing faster than we could have ever imagined. Our young people are seeing themselves in ways that they never thought was possible. Our queer stories are part and parcel of this continent. There are many LGBTIQ heroes, heroines or they-ines who are trailblazing in their own little way. They, too, need to be read about, seen, spoken of, normalised, and celebrated for who they are - Africans.

Yours truly
An African Queer

Kevin Mwachiro is a writer, journalist, podcaster and queer activist.

Elusive press freedom: *The Gambia, lessons on transition from dictatorship*

By Saikou Jammeh

“There was dictatorship, yes, but at least at some point we had some good writers. Now, everyone is talking about press freedom. There is progress, much progress and commendable so, but what is the essence of press freedom if there is no good journalism?”

Abdul Hamdi Adiamoh is a journalist and publisher and knows better than most what it was like working as a journalist in a dictatorship. He was detained and put on trial four times in less than five years. At his fourth court saga, he was ordered to pay a fine of 100,000 Dalasis (approx. USD3100 at the time) for contempt of court. He went into exile soon after being pushed into announcing the temporary closure of his newspaper, Today, a leading national daily at the time.

This was in 2012.

Three years later, President Jammeh suffered a shocking **election defeat**.

To Adiamoh, the change of government offered an opportunity to return home and a re-launch.

“Sometimes I wonder if this [my addiction to journalism] is sorcery,” he said. “But I am stuck with this trade.”

The media under Jammeh

President Yahya Jammeh was designated a **press predator**. Under his 22 years of rule (1994-2016), three journalists – **Deyda Hydara**, **Chief Ebrima Manneh** and **Omar Barrow** - died in killings linked to his government. Several dozens were subjected to **torture**. Some were maimed. One of them, Dodou Sanneh, never recovered fully and died a few years later.

When the media space became constricted, exile offered a way out and for some was the only option left to avoid either jail or serious harm, hence an exodus followed. By 2010, at least 20 % of practicing journalists had fled for their lives. Others were forced to change careers. Among these were the best educated and most experienced of media workers.

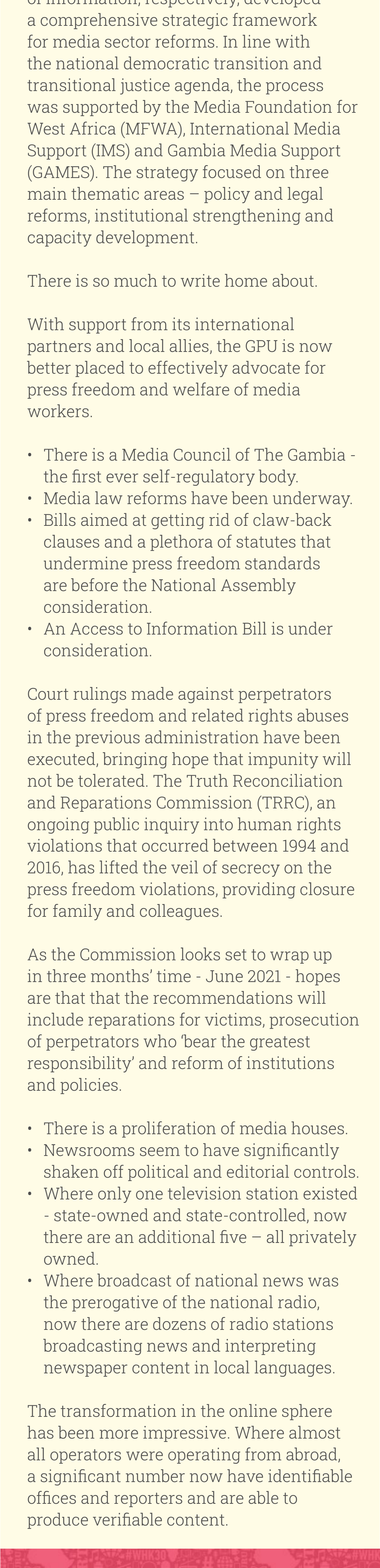


Photo: Prime Minister Abiy Ahmed. Photo: Alexandros Michailidis / Shutterstock.com

A new government, a ray of hope for the media

Following the change of government, media groups and government led by the Gambia Press Union (GPU) and Ministry of Information, respectively, developed a comprehensive strategic framework for media sector reforms. In line with the national democratic transition and transitional justice agenda, the process was supported by the Media Foundation for West Africa (MFWA), International Media Support (IMS) and Gambia Media Support (GAMES). The strategy focused on three main thematic areas – policy and legal reforms, institutional strengthening and capacity development.

There is so much to write home about.

With support from its international partners and local allies, the GPU is now better placed to effectively advocate for press freedom and welfare of media workers.

- There is a Media Council of The Gambia - the first ever self-regulatory body.
- Media law reforms have been underway.
- Bills aimed at getting rid of claw-back clauses and a plethora of statutes that undermine press freedom standards are before the National Assembly consideration.
- An Access to Information Bill is under consideration.

Court rulings made against perpetrators of press freedom and related rights abuses in the previous administration have been executed, bringing hope that impunity will not be tolerated. The Truth Reconciliation and Reparations Commission (TRRC), an ongoing public inquiry into human rights violations that occurred between 1994 and 2016, has lifted the veil of secrecy on the press freedom violations, providing closure for family and colleagues.

As the Commission looks set to wrap up in three months' time - June 2021 - hopes are that that the recommendations will include reparations for victims, prosecution of perpetrators who 'bear the greatest responsibility' and reform of institutions and policies.

- There is a proliferation of media houses.
- Newsrooms seem to have significantly shaken off political and editorial controls.
- Where only one television station existed - state-owned and state-controlled, now there are an additional five – all privately owned.
- Where broadcast of national news was the prerogative of the national radio, now there are dozens of radio stations broadcasting news and interpreting newspaper content in local languages.

The transformation in the online sphere has been more impressive. Where almost all operators were operating from abroad, a significant number now have identifiable offices and reporters and are able to produce verifiable content.



However, the reforms are not as far-reaching as may be desired in some quarters.

Mr Demba Kandeh, a journalism lecturer and researcher, said frustrations like the one Adiamoh is experiencing, in being able to get suitably qualified candidates for his newspaper, lies perhaps, in the approach to the transition from dictatorship.

He said: “If there is one lesson to be learnt from the transition programmes, it is that we placed too much focus on media law reforms at the expense of building the skills and competencies of the people – journalists - who are in fact supposed to be key drivers of the change we seek.

“We forgot that there was a deliberate policy to suppress journalism education; and that those that are coming out of schools need time to make a difference. We did not focus on the immediate and medium term capacity needs of the media industry. That is why, for me, five years on, the more things change, the more they look the same, especially with respect to the quality of journalism.”

The record of attacks on journalists under the new government is worrying.

Between 2017 and 2019, there were over 15 instances of physical assault on media workers by police and politicians. This is twice more than the last five years under dictatorship.

And as it was under President Jammeh, so it is under President Barrow - the culture of impunity continues to thrive.

One way or another Gambia missed the fruit bearing benefits of the political transition, as political leaders are now focusing on power retention and not continuing with expected governance reforms, hence the renewed attacks on the media.

In 2019 alone, at least four media practitioners were arrested and detained and two radio stations were unlawfully shut down.

Voted down by legislators aligned to President Barrow, the rejection of the **2020 Draft Constitution** is a striking blow to the aspiration of meaningful democratic transition and transitional justice. Providing much broader and stronger guarantees for fundamental rights and freedoms, if adopted, it would have been a strong basis for an entrenched culture of press freedom.

In the face of upcoming presidential elections in December 2021, attention is shifting away from media reforms that are overdue. With the 1997 Constitution – a relic of the former dictatorship in place - the **slow pace of security reforms, occasional threats of using anti-press laws against journalists by the presidency** and the deep-seated culture of impunity - press freedom in Africa's newest democracy, The Gambia, is hanging by the thread.

Saikou Jammeh is a Gambian journalist and former Secretary General of the Gambia Press Union. He currently works as the Executive Director of Open Media Centre, a non-profit media organisation that specialises in investigative journalism.

Where are the women?

By *Wanja Njuguna*

“We need a daily paper edited and composed according to a woman’s own thoughts, and not as a woman thinks a man wants her to think and write. As it is now, the men who control the finances control the paper. As long as we occupy our present position we are mentally and morally in the power of the men who engineer the finances. Horace Greely once said that women ought not to expect the same pay for work that men received. He advised women to go down into New Jersey, buy a parcel of ground, and go to raising strawberries. Then when they came up to New York with their strawberries the men wouldn’t dare to offer them half price for their produce. I say, my journalistic sisters, that it is high time we were raising our own strawberries on our own land,”

– Susan B. Anthony, May 23, 1893, World's Congress of Representative Women.

When Susan B. Anthony made the above statement about 128 years ago, few would have imagined that a century plus later, the issues women in media were dealing with then, would still be present today, albeit in varied ways.

In the last 30 years since the Windhoek Declaration, has anything changed - from numbers of women in the media, numbers of women in media management to numbers of female sources in news stories?

Evidence from various sources point out that little has changed, progress has been slow and disappointing. From the Windhoek Declaration, 30 years ago to date, one can say that women representation in the media remains a matter of concern and critical for media transformation. African based and international campaigns continue to raise the issue of gender equality in media and in society in general, but the question now is what else can be done. Of importance to note is that international campaigns such as the #Metoo movement (with a follow-up in journalism by media personality, Zainab Salbi who had a show in 2018 on PBS called #MeToo, now What?), #HeforShe, #EndFGM, #TimesUp, #One and many others have re-energised calls for reduction of gender discrimination across various areas of life including the media.

Representation of women in the news worldwide

One of the latest media reports, “The Missing Perspectives of Women in News” by Luba Kassova released November 2020 provides trends in India, Kenya, Nigeria, South Africa, the UK, and the US that reveals both a mix of progress and lack of it in representation of women in the newsroom and as news sources. The report shows that “women’s representation in the news has flatlined (if not reversed) in the 21st century and that women are still marginalized in governance/leadership roles in news organizations”. In the six (6) countries that were analysed, “less than 1% of news stories cover gender equality issues. In 2019, women’s share of protagonists or of quoted experts/sources in the news was between 14% and 30% in the six countries”.

According to the said report, men still dominate management in news media organisations. It is however comforting to note that “South Africa is a global leader in gender parity in the newsroom (49% of journalists are women), followed by the UK (47%) and the US (42-45%). Gender diversity shows some improvement in Kenya (42% in 2015 vs. 35% in 2009) and in India (28% in 2019 vs. 19% in 2011), but may be declining in Nigeria (24% in 2015 vs. 38% in 2011).” South Africa also leads in terms of the proportion of women in senior leadership roles in news organizations (42% of top editors in 2020 are women). Nigeria lags significantly behind in terms of senior leadership, with just 4% of women occupying senior editorial roles in leading newspapers.

73% of the media management and news gathering positions in media houses in the countries surveyed, were held by men while only 27% were held by women.

While the above statistics may seem to show a mix of progress and alack of it, a 2011 report by the International Women’s Media Foundation (IWMF) - Global Report on the Status of Women in News Media, published exactly 20 years after Windhoek Declaration might provide a different picture on what should be celebrated today. The report covering 59 nations, representing all regions of the world reviewed 522 media companies (79 of these in the Southern Africa region) indicates that only 33.3% (a third) of the full-time journalism workforce were women.

From the extensive research, some of the key results that might help inform the current situation in many regions, are indications that 73% of the media management and news gathering positions in media houses in the countries surveyed, were held by men while only 27% were held by women. However, the discrepancies were lower in some regions. For example, in Eastern Europe, the figures were 44% and 43% while in Nordic Europe, it was 36% and 37% respectively. The situation was worse in the Asia and Oceania regions where women were barely 13% of those in senior management.

In countries such as South Africa, women exceeded men in senior management level with at least 79.5%. The identified glass ceilings for women in 20 of 59 nations studied where most invisible barriers were found, was in middle and senior management levels. Of importance to note then was that “Slightly more than half of the companies surveyed [had] an established company-wide policy on gender equity. These ranged from 16% of companies surveyed in Eastern Europe to 69% in Western Europe and Sub-Saharan Africa.”

Fast forward to the current situation in newsrooms, a 2020 International Media Support (IMS report titled - “Women in Media - Balance the Imbalance”) shows discrepancies worth noting. Amongst others, the report shows that “Only 4% of all newspapers, radio and TV reports worldwide show gender balance in news stories, while only 24% of news subjects - (sources) are female. The report further explains that “only 19% of ‘experts’ used in the stories are women while only 16% of women are subjects in news that relates to politics and government.”

On the other hand, a 2019 McKinsey & Company report entitled “Shattering the glass screen”, showed that gender stereotypes still play a critical role in women getting leadership roles in the US. However, in the research McKinsey reveals that “women are better represented in media and entertainment than in other industries overall”. Though there are more women in media and entertainment at 49%, most of the women are concentrated in entry-level positions and these women in entry-level positions are not moving up the ladder in media and entertainment faster than men. In one of the questions asked, 35% of women compared to 15% men felt their gender hindered the advancement upwards in their profession while almost half of the women felt there are different standards used to judge them as compared to their male counterparts. When it came to issues of race, women of colour were found to be poorly represented across all levels in media and entertainment. Of importance to note was that at management level in news organisations, 44% of employees were women compared with other corporate organisations .

In the Southern Africa region, the statistics are both worrying and encouraging. Whereas there has been extensive progress in the news rooms and in the representation of women in the media, so much more needs to be done for the balance of ‘newsmakers’ and ‘news readers’ for real change to be felt. In the most recent SADC Gender Protocol Barometer (2018), a Gender Links report highlights amongst others that, while there is a paltry increase in women sources in the media from 17% in the 2003 Gender and Media Baseline Study (GMBS) to 20% in the 2015 GMMPS), the “region has seen an encouraging increase in the proportion of women in media management from 27% to 34%”. The report which is extensively based on monitoring, evaluation and results framework, further provides good news on the impact of the enrolment of more female students into journalism and media studies.

A key issue raised by Kassova (2020) is how patriarchy negatively impacts journalism, noting how, “patriarchal norms are at the heart of the existing invisible barriers for women in news” while “men are still in the driving seat in news media organizations. Women form a minority of leaders, governors and top managers in news organizations in each of the countries examined. Globally, 26% of governance roles in news organizations were held by women in 2011. When the governing structure of a news organization is dominated by men, even a gender-balanced newsroom continues to exhibit male biases”.

Most recently, in a Reuters Institute Oxford research based on Women and leadership in the news media 2021: evidence from 12 markets shows “only 22% of the 180 top editors across 240 global media brands are women. There was a 2% change in women top editors between 2020 and 2021. In 11 out of the 12 markets, the majority of the top editors are men. Again, there is positive news from South Africa where 62% of journalists and 60% of top editors are women.

Where to from here?

There has been progress worldwide in representation of women in the media as journalists, media managers and as sources. Africa has equally made some positive steps though a lot more still needs to be done. It is also important to celebrate and take lessons from success stories such as South Africa where there has been a huge jump in women in media management positions . There is equally a notable increase in the uptake of journalism studies by women. This however does not necessarily translate to an increase of women in newsrooms or managerial positions and that might be worth a research to identify the reason behind this discrepancy and advocacy actions pushing back on patriarchy are needed. Finally the overall societal attitudes to women in all facets of life need to change for a holistic change to be seen in the representation of women in media.

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Cybercrime law in Africa's Online space

New Frontier in Defence of Free Expression

By Henry Maina

The internet is slowly but surely revolutionising societies everywhere and Africa has not been left behind. Internet growth on the continent has been exponential while it is yet to reach its peak. Increasingly too, many Africans are relying on the internet for business, entertainment, communication and participating in governance.

According to Internet World Statistics, internet penetration in Africa has reached 46.2% of the population with an estimated 635,000 000 users as of December 31, 2020. As such, social media platforms like Facebook, YouTube, Twitter, Pinterest, Whatsapp, TikTok, Instagram and LinkedIn have gained considerable popularity in recent years. Facebook, in particular, has over 255,412,900 subscribers which is 62.18% of all users of social media in Africa.

On the other hand, electronic commerce is fast becoming the norm on the whole continent, such that most businesses, big or small, endeavour to have an online presence. Governments, as a business, have also not been left behind. Most have developed elaborate programmes and infrastructure to foster e-governments.

Journalists, political, social and human rights activists have equally not been left behind. Today, these groups use blogs, websites and portals to do their work and engage in political and social activism. Most legacy media outlets have also digitised their platforms and gained significant online presence.

The cyberspace is thus the new public space and sphere akin to the legacy media that the proponents of the Windhoek Declaration sought to protect and promote 30 years ago.

As such governments, security agencies, businesses and citizen groups are grappling, not only to have access but to also control the internet and related cyberspace.

As a result of the multiple interests in the availability, accessibility and integrity of cyberspace it shall remain the next battlefield for the foreseeable future.

Ostensibly to foster electronic commerce and secure availability, integrity and accessibility of cyberspace most governments are fast enacting comprehensive sets of cybercrime laws. A brief about the current state of cybercrime laws suffices.

So far 46 African countries (85%) have passed comprehensive cyber crime laws and two (2) countries (Congo, eSwatini (formally Swaziland until 2018) have draft legislation. Central Africa Republic (CAR), Chad, Zimbabwe Comoros, Democratic Republic of Congo, Eritrea, Equatorial-Guinea, Gabon, Guinea-Bissau, Liberia, Libya, Namibia, Somalia and Tunisia have recently passed the law or are at different levels of consideration.

We identify these countries as sites for media freedom and other civil liberties advocates to keep their eyes set on them as these laws, "if passed without clear human rights safeguards can be inimical to rights as we will show later in this article."

Globally, over 177 countries have enacted comprehensive cybercrime laws. The trends above may look lower compared to Europe which has the highest adoption rate (100%) while Asia and the Pacific has the lowest adoption rate of 55%. Most of the countries seem to have fashioned their laws around the Budapest Convention on Cybercrime which has so far 65 ratifications with five (5) of them from African states namely Cape Verde, Ghana, Mauritius, Morocco and Senegal. Other five (5) namely Benin, Burkina Faso, Nigeria, South Africa and Tunisia have been invited to accede.

The **Budapest Convention** is the first international treaty seeking to address cybercrime by harmonising national laws, improving investigative techniques, and increasing cooperation among nations. Ironically, the **African Union Convention on Cyber Security and Personal Data Protection**, adopted on 27 June 2014

has only been ratified by eight member states namely: Angola, Ghana, Guinea, Mozambique, Mauritius, Namibia, Rwanda and Senegal. It requires ratification by 15 member states for it to enter into force.

But before we delve on the threats posed by the litany of cyber-crime laws recently enacted by most African states, a brief on the supposed use and value of and the contagion effect of enactment of such laws suffices.

To security sector actors and cybercrime law proponents, cybercrime is not just a growing concern to countries at all levels of development as it affects both buyers and sellers, citizens and governments, It is a criminal enterprise that can wreak havoc to all economies of the world. Increased cybersecurity, they argue, will help protect consumers and business and ensure availability of critical infrastructure.

The proponents of cybercrime law hold that such laws identify standards of acceptable behaviour for Information, Communication, Technology (ICT) users; establish socio-legal sanctions for cybercrime; protect ICT users in general, and mitigates, and/or prevents harm to people, systems, services, and infrastructure. They add that the laws protect human rights and enable the investigation and prosecution of crimes committed online or through facilitation of online platforms. To them cybercrime laws provide rules of conduct and standards of behaviour for the use of the internet, computers, and related digital technologies and spell out both substantive, procedural and preventive provisions of law.

As such, most of the laws seek to provide an effective, unified, and comprehensive legal, regulatory, and institutional framework for the prohibition, prevention, detection, prosecution, and punishment of cyber crimes. The laws mimic each other. They all take a one-size-fits-all approach that ignores nuances specific to each sector and country, and this could be problematic given some countries do not have proper procedural safeguards to ensure security agencies do not misuse their investigatory powers.

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Today, as we celebrate the legacy of the **Windhoek Declaration**, a new challenge-cyber-security legal regimes is fast emerging. The one-size-fits-all approach masks ongoing national struggles around freedom of expression, right to privacy, freedom of assembly and association.

Most of these laws, mostly enacted in the last two decades, do more than just provide for criminal offences against and by means of computers.

First, in their bid to criminalise certain conduct, they fail to clearly define what conduct constitutes criminal offence. Put differently, they use overbroad terms to cast the net too wide beyond just establishing crimes under unauthorised access to computer material (hacking), unauthorised access with intent to commit or facilitate commission of further offence; unauthorised modification of computer material, unauthorised interception, denial of service, computer-related forgery and fraud.

To elaborate on the first point, through use of overbroad cybercrime laws countries like Zambia, Uganda, Zimbabwe, Cameroon, Tanzania, Rwanda to name but a few, have witnessed the indefinite banning of websites and online publications and portals. Some cybercrime laws in Africa, like Tanzania's Cybercrime Act, 2015, have deliberately included espionage and criminalise justifiable causes like investigative journalism, research and penetration testing by cybersecurity experts.

As such these laws seek to open the floodgates to criminalisation of ordinary online behaviour that is guaranteed under most constitutions and is protected under international human rights law.

Second, most laws seem to introduce broad content-related offences that unduly limit freedom of expression, right to privacy and freedom of association and assembly. While it is universally accepted that there is need to provide for laws against online child sexual abuse material, some of these laws have introduced more offences on pornography, cyber obscenity, cyber stalking, sharing of unsolicited messages, and publication of false news. Some also introduce copyright offences.

For example, the **Tanzanian Cybercrime Act, 2015** and the **South African Electronic Communications and Transactions Act, 2002** ban pornography. This ban is far beyond what international human rights law permits. It also goes far above proscribing procurement and distribution of child pornography. To many freedom of expression advocates, this is an undue limitation to freedom of expression given that adults may at their own volition want to watch such content created by two consenting adults.

Also activists campaigning against child pornography, investigative journalists and academics may have access to such material with a view to put a spotlight on the vice but the fact that security agents can lay their hands on such materials and prefer criminal charges against them leaves a lot to be desired.

Third, the laws tend to negate procedural safeguards on investigation, adducing of evidence and prosecution. For instance, investigators are under such laws permitted to enter, search and seize material without procedural safeguard and oversight from the courts of law.

From the above, it is evident that a surge in legislation and policies aimed at combating cybercrime have also opened the door to punishing and surveillance of journalists, activists and protesters in many countries in Africa.

"States are increasingly using cybercrime legislation and enforcement resources as a vehicle for restricting speech or controlling content that may hold them to account and even question the decisions of those in leadership," said Ms Irene Khan, the UN Special Rapporteur on Freedom of expression.

In sum, while cybersecurity is a significant problem in Africa and the world, solutions should not threaten user privacy and fundamental rights of freedom of expression and association under the veil of national security. Counter-cyber attacks programmes must be transparent and respect fundamental human rights. If not, "cybercrime law is likely to remain the new frontier for those keen to secure media freedom and independence, freedom of assembly and association and right to privacy."

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By Gwen Lister & Khadija Patel

**KEEPING MEDIA AND
JOURNALISM
SUSTAINABLE ... ARGUING
FOR A GLOBAL FUND FOR
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