

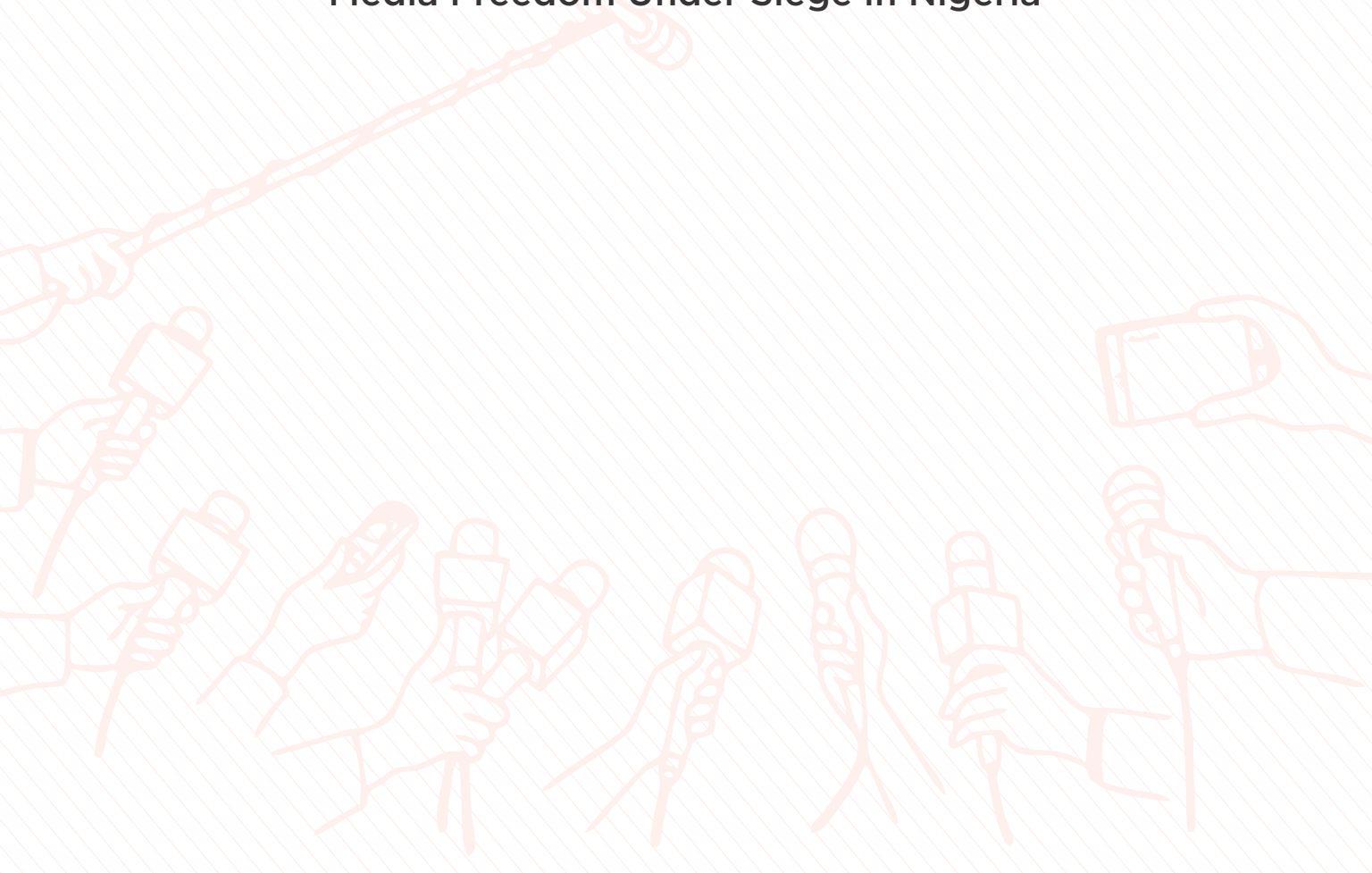


# SOMETHING TO HIDE?:

MEDIA FREEDOM UNDER SIEGE IN NIGERIA

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Accountability Project (SERAP)  
Lagos, Nigeria - 2020

## Something to Hide?: Media Freedom Under Siege in Nigeria



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Socio-Economic Rights and Accountability Project (SERAP) is a non-profit, nonpartisan, legal and advocacy organization devoted to promoting transparency, accountability and respect for socio-economic rights in Nigeria. SERAP received the Wole Soyinka Anti-Corruption Defender Award in 2014, and was nominated for the UN Civil Society Award and Ford Foundation's Jubilee Transparency Award.

SERAP is a member of the UNCAC Coalition, a global anti-corruption network of over 350 civil society organizations (CSOs) in over 100 countries, which is committed to promoting the ratification, implementation and monitoring of the UN Convention against Corruption. SERAP previously served as one of two Sub-Saharan African civil society representatives on the governing Committee of the Coalition.

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## ACRONYMS AND ABBREVIATIONS

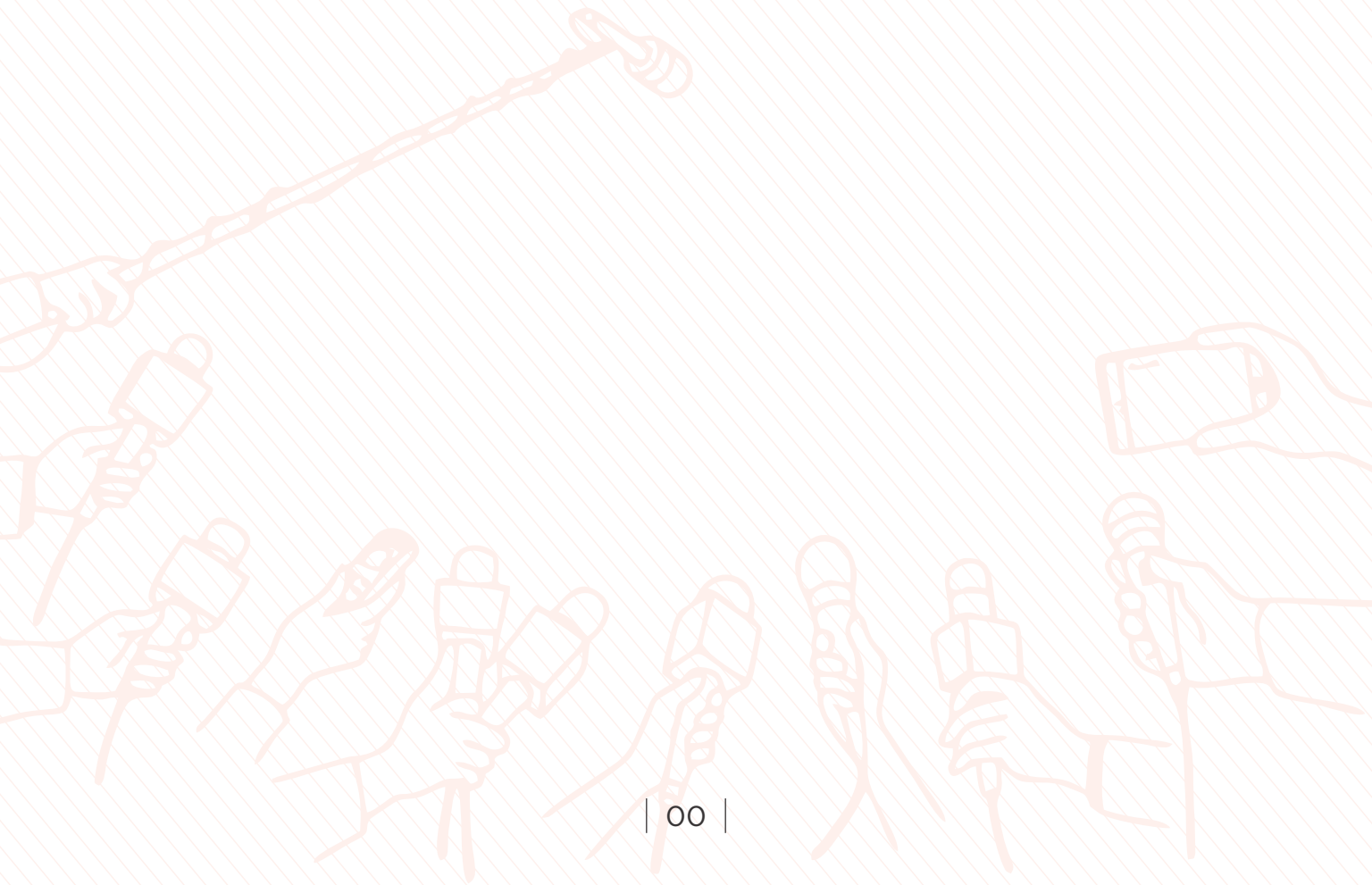
ACHPR	-	African Commission on Human and Peoples' Rights
AFRICMIL	-	The African Centre for Media and Information Literacy
AML	-	Anti-Money Laundering
CDD	-	Centre for Democracy and Development
CFT	-	Countering Financing of Terrorism
CPJ	-	Committee to Protect Journalists
CWPPF	-	Coalition for Whistleblowers and Press Freedom
DNFIs	-	Designated Non-Financial Businesses and Institutions
DSS	-	Department of State Security Service
EFCC	-	Economic and Financial Crimes Commission
FATF	-	Financial Action Task Force
FCT	-	Federal Capital Territory
FRCN	-	Federal Radio Corporation of Nigeria
ICCPR	-	International Covenant on Civil and Political Rights
INEC	-	The Independent National Electoral Commission
NBC	-	National Broadcasting Commission
NED	-	National Endowment for Democracy
NRA	-	National Risk Assessment
NPO	-	Non-Profit Organization
NUJ	-	Nigerian Union of Journalists
PAT	-	Press Attack Tracker
PDP	-	Peoples Democratic Party
PTCIJ	-	Premium Times Centre for Investigative Journalism
RSF	-	Reporters Without Borders
RULAAC	-	Rule of Law and Accountability Advocacy Centre
SARS	-	Special Anti-Robbery Squad
SERAP	-	Socio-Economic Rights and Accountability Project
SSS	-	Department of State Security Service
TF	-	Terrorism Financing

## ACKNOWLEDGMENTS

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We are also immensely grateful to Dr. Kolawole Olaniyan, legal adviser at Amnesty International's International Secretariat, London, and Sheila M. Masinde, for their contribution to the publication of this report.



## **EXECUTIVE SUMMARY**

Civic space in Nigeria has increasingly been restricted for many years. Freedom of expression, the freedom of the press or media rights, freedom of thought and the freedom of association and peaceful assembly, which are critical components of civic space, have all come under serious attack. The violations and abuses leading to a closing of civic space have been committed by state and non-state actors.

It is against this background that the Socio-Economic Rights and Accountability Project (SERAP) in collaboration with the National Endowment for Democracy (NED) implemented the project to defend and advance civic space and to improve government transparency and accountability in Nigeria, where the civic space continues to shrink. Through this project, SERAP monitored the state of the civic space in Nigeria in the past two years (2019 to 2021) to report on the extent to which civic space has deteriorated and recommend ways to expand the civic space.

### **RESEARCH OBJECTIVES**

The aim of this report is to document cases of repression of the civic space, and to sensitize the Nigeria public on the current shrinking and abuse on civic space, clampdown on media organisations and suppression of freedom of expression, and to put pressure on federal and state governments to end the violations and uphold their constitutional and international human rights obligations and commitments. This report also aims to mobilize journalists, civil society organisations (CSOs) and citizens to speak out against these attacks, harassment and intimidation, and to engage federal and state governments on how to address the problems.

### **RESEARCH METHODOLOGY**

This report was researched and written between February and March 2021. A detailed desk review of evidence of infractions and restrictive actions concerning the state of civic space, freedom of expression and media freedom in Nigeria was carried out. This involved a detailed review of the legal frameworks restricting freedom of expression and media freedom in Nigeria and a review of documented cases of assault on civic space, attacks and harassment, intimidation of journalists, bloggers and activists by the government in the two-year period from 2019.

Independent and individual in-depth interviews, on the current policies and legal framework as pertains to the state of the civic space and media rights in Nigeria, were conducted to collect the views and opinions of selected stakeholders. The interviewees were asked key questions outlined for the assignment. The interviews were also used to clarify questions arising from the desk review. The list of interviewees included government officials from the Federal Ministry of Justice, Nigeria Police, National Human Rights Commission, (most government officials spoke on conditions of anonymity as they did not want to be quoted), media/journalists, civil society activists, opposition politicians, civil society organisations (CSOs) and international human rights bodies and organisations.

Relevant interviews earlier carried out within the review period and other information published in books, reports, journals and scholarly opinions were also analyzed. The data collected was analyzed by using both quantitative and qualitative analysis methods.

## **SUMMARY FINDINGS**

The report illustrates that Nigeria's civic space has significantly shrunk in the past two years. State actors at federal, state and local government levels have carried out violations that have shrunk the civic space.

By taking actions that violate democratic freedoms, state actors have been culpable for the many infractions on the civic space in Nigeria. A number of non-state actors such as Boko Haram, (and other quasi-religious groups), political thugs, "unknown" gunmen, and some powerful individuals are also guilty of taking steps that violate freedoms thus shrinking the civic space in Nigeria.

The report concludes that state actors as government entities have legally binding obligations to ensure and promote an open civic space particularly because Nigeria is a democracy. So it is imperative that the government should promote freedom of thought, freedom of expression, freedom of association and freedom of assembly in the country.

## **KEY RECOMMENDATIONS**

The report makes recommendations to different stakeholders including the President, State—federal and state authorities, inter-governmental organisations, and international and regional human rights mechanisms, and the media as summarized below.

1. The President of Nigeria should publicly condemn all attacks on journalists and media organizations; and issue a clear, public statement to all government and security force officials prohibiting any acts of intimidation, threats, harassment, and arbitrary arrests of journalists and media workers, and state that such incidents will be immediately investigated and appropriately disciplined or prosecuted.
2. The National Assembly should promptly and comprehensively review the Cybercrimes Act and other restrictive legislation, and revise them as necessary to bring them in line with Nigeria's international obligations regarding the right to freedom of expression and the media; and ensure that any restrictions on media freedom in the law are necessary, proportionate and least restrictive.
3. The Minister for Justice should push for the immediate amendment of the Cybercrimes Act and other legislation, and bring them in line with the Nigerian Constitution of 1999 (as amended) and international human rights obligations under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights among others, to which Nigeria is a state party.
4. The Minister for Information should promptly review restrictive and oppressive media legislation in Nigeria and seek immediate revision of any provisions that violate the right to freedom of expression and media freedom, and ensure that any restrictions on media freedom are necessary, proportionate and least restrictive; and ensure that the regulatory mechanisms including the National Broadcasting Commission are independent and promote self-regulation of the media.
5. All the 36 State Governors should ensure that any government or security officials found responsible for obstructing, abusing, or attacking journalists or media organizations are appropriately disciplined or prosecuted.
6. The National Human Rights Commission should publicly condemn all attacks on journalists and media organizations; and issue a clear, public statement to all government and security force officials prohibiting any acts of intimidation, threats, harassment, and arbitrary arrests of journalists and media workers, and state that such incidents will be immediately investigated and appropriately disciplined or prosecuted.

7. The UN, African Union and African Commission on Human and Peoples' Rights should publicly express concerns regarding violations of the right to freedom of expression and media freedom in Nigeria and urge the Federal and State governments in Nigeria to publicly call on all security agents and Nigeria Police Force not to harass or threaten journalists and other media workers.
  
8. The Nigerian Guild of Editors and Nigerian Union of Journalists should work closely with NGOs and other stakeholders to carry out systematic monitoring and reporting of freedom of expression abuses throughout the country.



## 1. INTRODUCTION

According to the United Nations Office of the High Commissioner for Human Rights: “Civic space is the environment that enables civil society to play a role in the political, economic and social life of our societies. In particular, civic space allows individuals and groups to contribute to policy-making that affects their lives, including by accessing information, engaging in dialogue, expressing dissent or disagreement, and joining together to express their views.”<sup>1</sup>

In Nigeria, particularly in the past two years under review, civic space is shrinking by the day so to speak. Freedom of expression, the freedom of the press or media rights, freedom of thought and the freedom of association and peaceful assembly, which are critical components of civic space, have all come under serious attack. The violations and abuses leading to a closing of civic space have been committed by state and non-state actors. This report examines the state of the civic space in Nigeria in the period between 2019 and 2021.

The Freedom of Expression - comprising media freedom and the freedom of speech and access to information - faced increasing repression by both the Federal and State governments in the Nigerian civic environment. Many of the incidents pertain to civic engagements on social media.

The Federal and State governments also projected a negative attitude towards organized and peaceful dissent in the period under review. Protests against governments at all levels were met with high-handedness, excessive use of force, and brutality by the police and other security agents.

Having political differences or holding contrary political views became a driver of closing civic space, yet the ability to hold contrary political views is integral to a free civic space, and a society based on the rule of law and respect for human rights.

Restrictive legislative frameworks have also been deployed to stifle the civic space. Nigeria’s National Assembly considered the passage of several bills that aimed to curtail the rights to freedom of expression, association, religious and peaceful

assembly, as well as media freedom, including in online media spaces. Some of these repressive bills include the Non-Governmental Organization Regulatory Commission of Nigeria (Establishment) Bill, 2016 (NGO Bill); Protection from Internet Falsehood and Manipulation Bill 2019 (Social Media Bill) and National Commission for the Prohibition of Hate Speeches Bill 2019 (Hate Speech Bill)—all of which have generated heated discontent across the polity, triggering push back from the civil society and human rights organizations.

The litany of arbitrary arrests, detention and prosecutions of human rights defenders, activists, journalists, bloggers among others, directly flow from the use of executive powers to repress human rights, undermine the rule of law and the people's right to participation in their own government.

Various state actors advance various excuses as the reasons for banning religious gatherings, arresting and detaining private citizens, demolishing commercial buildings, and curtailing their services in ways that ultimately restrict human rights.

Violations of the civic space usually take the form of verbal and physical assault, as well as indiscriminate arrest and detention of journalists, opposition politicians, activists, bloggers, by Nigerian authorities. These violations are mostly perpetrated by Nigeria's security agencies - the Nigeria Police, the Nigerian Army and officials of the Department of State Service (DSS) and by the government broadcast media regulatory body, the National Broadcasting Commission (NBC).

Non-State actors such as the armed group Boko Haram, political thugs, 'Unknown' gunmen, hoodlums and some powerful individuals have also been found to be responsible for and engaging in actions that push to shrink and close the civic space in Nigeria.

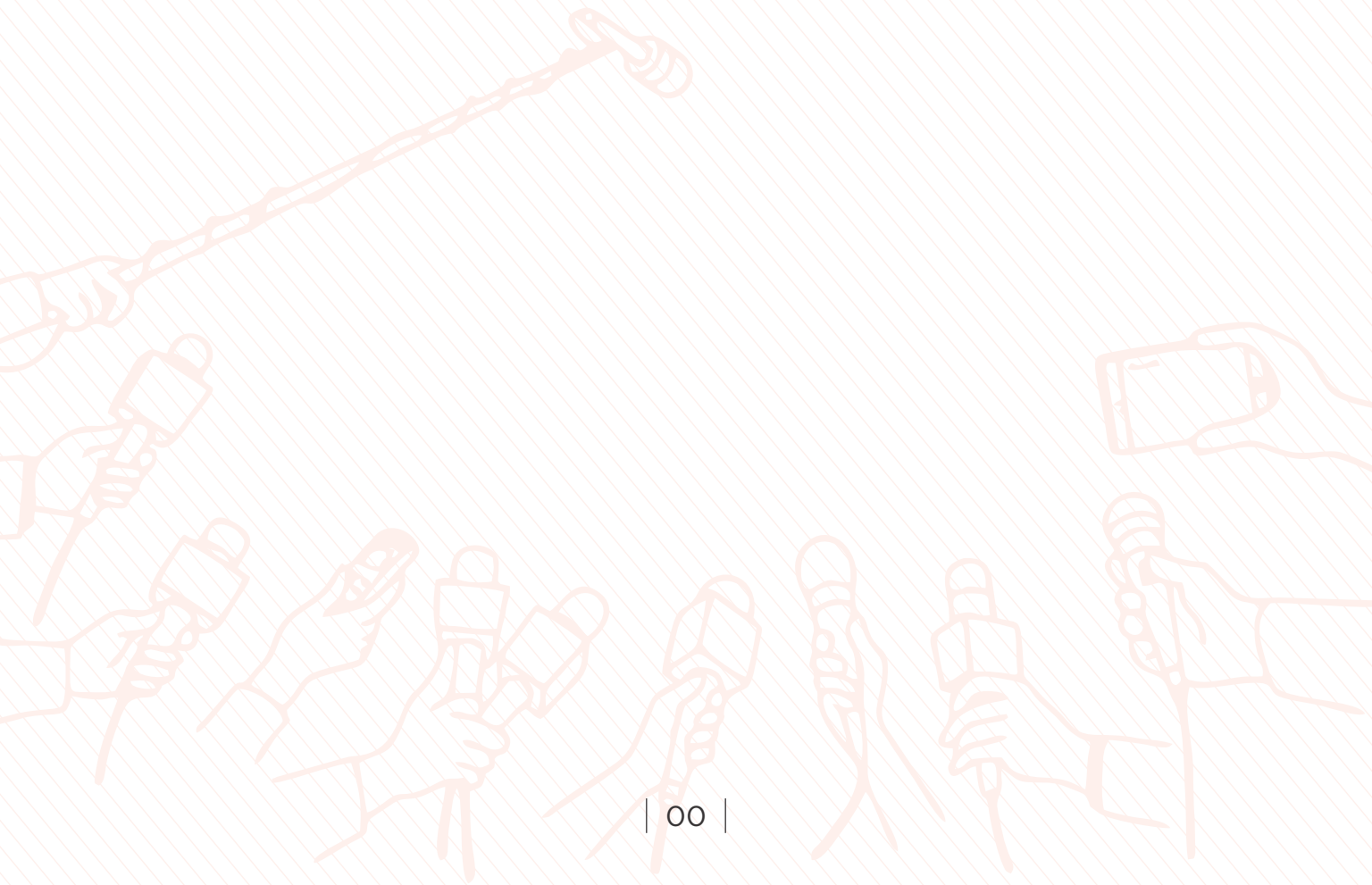
Violations of the civic space usually occur when citizens, journalists and media practitioners seek access to information, share information or express critical views that could influence public opinion; or when some activists or groups want to assemble and possibly promote or begin a campaign to canvass a view that is contrary to those held by people in authority; or when individuals engage in activities on the social media that are critical of high-ranking public officials.

## SOMETHING TO HIDE?:

### MEDIA FREEDOM UNDER SIEGE IN NIGERIA

The failure of the Federal Government to investigate cases of arbitrary arrest, detention, prosecution and persecution of journalists and media practitioners and bring suspected perpetrators to justice, as well as provide victims with access to justice and the right to effective remedies is a pointer to their approval of the violations and restrictions of the civic space and culpability in the closing of civic space in Nigeria.

It is against this background that the Socio-Economic Rights and Accountability Project (SERAP) decided to closely monitor the state of the civic space in Nigeria, report on the extent to which civic space has deteriorated and recommend ways to expand the civic space, and ensure the full and effective enjoyment of human rights, as well as promote transparency and accountability in Nigeria.



## 2. BACKGROUND AND CONTEXT

SERAP in collaboration with the National Endowment for Democracy (NED) implemented the project to defend and advance civic space and to improve government transparency and accountability in Nigeria, where the civic space continues to shrink. Over the past few years, citizens, human rights defenders, activists, journalists, and other media practitioners have come under increasing pressure when they criticize public officials and public figures, and push for improved transparency and accountability and respect for the rule of law.

There have been unrelenting attacks on citizens' human rights including freedom of expression, access to information and media freedom, which are all constituent parts of a country's civic space. In December 2019, CIVICUS, a coalition of civil society groups in a global index report stated, "Democratic freedom is shrinking in Nigeria." According to the report: "Nigeria has slipped from being an "obstructed" to a "repressed" nation – the second worst rating a country can have."<sup>1</sup>

Nigeria is now ranked among 38 countries in the same category like alongside Iraq, Brunei, Pakistan, India, Madagascar and Turkey.

Also, in its 2020 annual World Press Freedom Index, Reporters Without Border (RSF) ranked Nigeria 115 out of 180 countries, in which a ranking of one is considered the freest.<sup>2</sup>

The aim of this report is to document cases of repression of the civic space, and to sensitize the Nigeria public on the current shrinking and abuse on civic space, clampdown on media organisations and suppression of freedom of expression, and to put pressure on federal and state governments to end the violations and uphold their constitutional and international human rights obligations and commitments. This report also aims to mobilize journalists, civil society organisations (CSOs) and citizens to speak out against these attacks, harassment and intimidation, and to engage federal and state governments on how to address the problems. The report makes recommendations to different stakeholders; state—federal and state authorities, inter-governmental organisations, and international and regional human rights mechanisms.

## 2.1 BRIEF HISTORY OF CIVIC SPACE IN NIGERIA

According to Transparency and Accountability Initiative Report, "...civic space is defined as the set of conditions that determine the extent to which all members of society, both as individuals and in informal or organized groups, are able to freely, effectively and without discrimination exercise their basic civil rights. Principal among these are rights of information, expression, assembly, association and participation."<sup>1</sup>

The concept of civic space in Nigeria is directly related to Freedom of Thought, Freedom of Expression, Freedom of Association and Freedom of Assembly in the country.

The issues in regard to civic space in Nigeria are long-standing. The policies of the colonial and post-colonial Nigerian state has have contributed to the state of civic space in Nigeria. Indeed, the popular struggle by civil society in Nigeria is a historical phenomenon and finds its root in anti-people policies of the colonial and post-colonial Nigerian state. There has been a constant battle on the matter of an open civic state over the years.

Below is a brief overview of the state of the civic space in Nigeria since 1914.

### **The Colonial State Period:1914 – 1960**

During the colonial era, Nigerians invented forms of voluntary associations as a response to the disruptive impact of urbanization and commercialization and they gave collective shape to new occupational and cultural identities such as peaceful movements, labour unions, professional associations, among others. Many of these voluntary associations became explicitly political by giving voice, first to express dissent to the indignities of colonial rule, and over time, to the cries for independence.

Colonial rule imposed exploitative economic conditions (such as forced labour, dispossession of farmers and communal lands, and increased taxation also targeting women and against this background initial civil society activism in Nigeria was inevitable.

Colonial rule made civil society particularly labour, professional, women, and student organizations, and the media active in the socio-political space of the colonial era. Repressive colonial policies and urban-biased development became sources of local agitations which led to the nurturing and strengthening of civil society activism in Nigeria.

In view of the dissenting views and opposition to colonial policies in the form of outright protests by the indigenous groups in Nigeria, the colonial masters sought to virtually close the civic space through a variety of measures such as promulgation of restrictive media laws such as the enactment of Newspaper Ordinance of 1903 and Seditious Ordinance of 1909 and the notorious press gag law – the 1917 Act.<sup>2</sup> These laws were put in place to curb activities in the civic space and of the local press, and to sufficiently intimidate them to desist from expressing contrary views or ideas from that of the colonial administration. Other measures used then to shrink the civic space included detention and summary conviction of leaders of protesting groups, use of force to quell protests, banning of associations among others.

However, it should be noted that due to the agitation by indigenous groups against attempts to close the civic space through the continuous defiance of some actors in the civic space at the time, one can safely conclude that civil society actors by their refusal to totally allow the closure of the civic space contributed in no small measure to the overthrow of the colonial state. Indeed, associational activity by trade unions, professional societies and community organizations for instance, all contributed towards the shaping of a powerful nationalist movement

### **The Newly Independent Nigerian State: 1960 – 1966**

Despite independence and attainment of self-government rule, the ‘new lords of the manor’ did not actually fancy an open civic space especially in regard to opposing political views. Most of the colonial draconian laws remained in Nigeria’s law books as the leaders who took over from the colonial masters had no interest in abrogating the laws. The civilian administration led by Tafawa Balewa amended the earlier Act in 1964, which has been the basis of anti-press laws in Nigeria.<sup>3</sup>

All regional governments and the government at the centre were guilty of repressive acts including criminalization of peaceful expression and assembly; abusive police tactics by the police, especially the Native authority police, against those who voiced contrary views to those in power; overly restrictive laws as tools for repression; restrictions on freedom of assembly and in some cases association; and abuse of the judicial and legal processes to harass, intimidate and wear out political opposition. However, there was a bright spot at the time when the government of Tafawa Balewa tolerated Nigerian students under the banner of West African Student Union in 1960 at independence, as they marched to the Parliament in Lagos to forcibly stop the Prime Minister, Alhaji Tafawa Balewa’s Federal Government from constituting Nigeria

into a military base for Britain through the infamous Anglo-Nigeria defence pact.<sup>4</sup> To the Nigerian students at the time, this was another subtle way the erstwhile colonial masters wanted to keep the country on their leash through indirect security control and arrangement.

However, the activities in the civic space across party lines as well as regional lines and all-out efforts to close the civic space by various groups with the attendant fall out coupled with an array of animosities led to the collapse of the Tafawa Balewa led government as some rather young and, with hindsight can now be safely termed as naïve, army officers led by Major Chukwuma Kaduna Nzeogwu jumped into the civic space and overthrew the government of Balewa on 15th January, 1966.

### **The Era of Civil War/Military Regimes: 1966 – 1979**

Nigeria witnessed military interregnum, counter coups and a civil war for part of this period. By its very nature, military rule is authoritarian and dictatorial. If the civilian administration was against an open civic space and anti-media, the situation deteriorated with subsequent military regimes, each trying to outdo the other in an effort to put the media and other actors in the civic space in their 'rightful place'.

Consequently, right from the regime of Generals Aguiyi Ironsi, Yakubu Gowon, Murtala Mohammed, to Olusegun Obasanjo, the issue of civic space in Nigeria as regards freedom of thought, freedom of expression, freedom of association and freedom of assembly in the country suffered a great deal. There was a resort to various tactics which were clearly targeted to silence opposing views no matter how well intended. Such tactics included arrests and detention without trial, abductions by secret police, use of lethal force to quell protests no matter how peaceful, banning of associations, imprisonment after kangaroo and seriously flawed trials, physical assaults and even in one instance, the barbing of the hairs of a journalist.

### **Brief Civilian/Democratic Period: 1979 – 1983**

The Usman Shehu Shagari led government that took over from the military after the return to civilian rule in 1979 seemed to have little appreciation of learnings from the events of 1966 when a civilian administration was kicked out of office for not allowing an open civic space that would have ensured openness, inclusion, transparency, good governance and deepening of democracy.

It also seemed to have low tolerance for opposing political views or opinions. Most state governments and the government at the centre were guilty of these acts. Such acts included restrictions of freedom of expression and peaceful assembly in some parts of the country at the whim of state and non-state actors (usually government empowered or backed thugs) allied to those in authority, abusive police tactics by the police especially the mobile police now carried the appellation of 'Kill and Go', and abuse of the judicial and legal processes to harass, intimidate and wear out political opposition. Media freedom was also curtailed in the period.

However, the rigging of elections, violence and confusion in the civic space, created a fertile ground that led to the collapse of the Shagari government in 1983.

### **The Era of Military Regimes: 1983 – 1999**

The fall of the Shagari administration led to another military interregnum and series of coups. As earlier stated, by its very nature military rule is authoritarian and dictatorial. So right from the regime of Generals Muhammadu Buhari, Ibrahim Badamasi Babangida, Sani Abacha and Abdulsalami Abubakar, civic space in Nigeria in relation to freedom of thought, freedom of expression, freedom of association and freedom of assembly in the country also suffered a great deal. Consequently, media rights were abused. Various tactics were used to silence opposing viewpoints, no matter how patriotic, so long they were not in the interest of the military junta in power at the time. Such tactics included closure of media houses, detentions without trial of civil society activists, abductions by the secret police, use of lethal force to quell peaceful protests, banning of assemblies and associations, physical assaults, torture, imprisonment after kangaroo and seriously flawed trials, and sometimes assassinations, and enforced disappearances of those who had different views from the government in power.

Despite all efforts to close the civic space by the military, they were literally forced back to the barracks by the activities of determined actors in the civic space.

### **From 1999 to date**

The advent of democracy and civil rule in Nigeria in 1999 threw up fresh challenges. Many would have expected that with the return of democracy, open civic spaces would not be taken for granted. However, it has turned out to the contrary as there are still efforts by various actors, both state and non-state, to close and shrink the civic space.

It is self-evident from the brief historical overview of civic space and press freedom and the associated struggle by civil society, that Nigeria is not only an ongoing historical phenomenon but one that requires eternal vigilance and activism. It is equally obvious that historically there are a number of democratic assets embedded in Nigeria's civil society actors and their force and relevance are exemplified in the relative autonomy they enjoy vis-a-vis the state. These assets need to be continuously explored by and reflected in the resilience, consistency and activism of civil society.

It should also be noted that a section of non- state actors have also joined the fray in attempts to shrink the civic space in Nigeria. Noteworthy in this regard are extremist religious and terrorist groups such as the armed groups Boko Haram, Ansaru and a host of others who harass and intimidate media practitioners and civil society activists, and contributed to the shrinking and closing of civic space in Nigeria.

## 2.2 Brief outline of Actors in the Civic Space

Actors as regards civic space in Nigeria are as follows:

### **The State Actors:**

The Federal Government – Federal agencies such as the Police especially the disbanded the Special Anti-Robbery Squad (SARS), a unit of the Nigerian police tasked with fighting violent crimes, DSS, the Military, and National Broadcasting Commission (NBC)

State Government – State Governors and state government officials

Local Government – Heads of local government and hirelings at the behest of local government chairmen and officials

### **Non-state actors:**

Opposition politicians – Individuals that hold contrary views from those in power

Extremist/Terrorist groups – Such as Boko Haram, other quasi-religious groups among others

Powerful individuals – Political Chieftains

## 2.3 Summary of Current Issues in the Civic Space in Nigeria

### Factors Affecting the Civic Space in Nigeria

Rising security challenges across the world have led to a global trend of shrinking civic space with Nigeria facing its own security challenges with the Boko Haram insurgency, and other brewing ones in almost every geo-political zone of the country. State actors have resorted to laws and actions that inhibit the operation of an open society based on the rule of law and respect for human rights.

In the Nigerian context, impunity and abuse by security forces has been perpetrated in the pretext of 'national interest', overstretching what it really means (it is usually another word for regime security). This has been effected through restrictive legislations, undermining of the independence of the judiciary and the national assembly, and overboard enforcement and application of existing laws.

#### **Restrictive Legislative Frameworks to Shrink the Civic Space**

There have been consistent attempts by successive governments to deploy new legislative frameworks that shrink the civic space, some hurriedly enacted such as the Terrorism Act and the Cybercrimes Act which have problematic and vague provisions giving room for abuse by state actors.

Nigeria's National Assembly considered the passage of several bills that aimed to curtail the rights to freedom of expression, association, religion and assembly, including online spaces and media. Some of them included the Non-Governmental Organization Regulatory Commission of Nigeria (Establishment) Bill, 2016 (NGO Bill), Protection from Internet Falsehood and Manipulation Bill 2019 (Social Media Bill) and National Commission for the Prohibition of Hate Speeches Bill 2019 (Hate Speech Bill) all of which led to heated anger and discontent across the polity, triggering push back from civil society.

#### **Attempts by the National Assembly to Hamstring the Media and Shrink the Civic Space**

On May 20, 2019, the management of the National Assembly announced fresh guidelines for the accreditation of journalists that would be allowed to cover the proceedings of the National Assembly.<sup>1</sup> Although, it is normal practice to accredit media correspondents that cover the National Assembly, these new stringent measures were aimed at screening out 80% of the nation's media, with conditions akin

to General Ibrahim Babangida's infamous Newspaper Registration Decree 43 of 1993. Some conditions listed by the management included:

- Evidence of incorporation of the media organization
- Proof of membership of the NUJ, with a registration number and the code of certification from the National Library of Nigeria.
- Newspapers with a circulation of at least 40,000 copies daily, with evidence to support the claimed figure
- Evidence of 50,000 daily views in the case of online media.
- Photocopies of the media organization's tax return for at least two years.

Following strident opposition against this move, the new guidelines were withdrawn.

### **The Press Attack Tracker Report**

*Press Attack in Nigeria: 36 journalists attacked in 6 months<sup>2</sup> (January – July, 2019)*

At least 36 Nigerian journalists were attacked between January and July 2019, with 30 of the attacks recorded during the 2019 general elections. A civic tech platform that tracks attacks on journalists in Nigeria, Press Attack Tracker (PAT) 26, gave the statistics. The Press Attack Tracker was set up by the Premium Times Centre for Investigative Journalism (PTCIJ) in collaboration with the Coalition for Whistleblowers and Press Freedom (CWPPF) and Leaks.NG, in response to the unrelenting attacks on the press.

The attacks on the press during the elections included illegal arrests and detention, harassment, physical attacks, denial of access and the death of a journalist covering the elections in Delta State. The platform noted that the attacks were perpetrated by both thugs and state-actors and were recorded mostly in the south-south, south-east, and north-central part of the country.

### **Overbearing Influence of NBC on Broadcast Media**

The National Broadcasting Commission has regulatory powers over broadcast media in Nigeria. It has wielded these powers arbitrarily contributing to the shrinking of the civic space. On March 2, 2019, the National Broadcasting Commission (NBC) which has had an overbearing influence on broadcast stations, announced the sanction of 45 broadcast stations that breached the code of conduct on electioneering broadcast.<sup>3</sup>

In announcing the decision, the Commission said it sanctioned stations which allowed politicians to make abusive, inciting and provocative statements during rallies. Each station was fined N500,000 (\$1,400). See the full list of stations, the programmes which allegedly breached the code, and the reasons they got sanctioned below:

**Abuja Zone**

1. Jordan FM, (93.9 FM) Abuja (The Page and National Dialogue: Partisan comments in phone-in programmes less than 24 hours to the election)
2. Nigerian Info 95.1 FM, Abuja (Newspaper Headlines: Use of campaign headlines on the newspaper review)
3. Greetings 105.7 FM, Abuja (Talk Nigeria: Use of partisan SMS and endorsement of candidates)
4. AIT, Network Kaakaki (Kaakaki Social: Display of party logo and partisan social media content)
5. Crystal 91.3 FM, Abuja (Advert: Political campaign jingle)
6. WE 106.3 FM, Abuja (Sundowner: Use of campaign messages by the presenter)
7. NBS, Keffi (Newspaper Review: Use of campaign messages)
8. ZUMA 91.2 FM, Suleja (Hot Seat: Partisan political broadcast)
9. Channels TV, Abuja (News Headline: Display of partisan newspaper headline)

**Benin Zone**

1. Delta Broadcasting Service 97.9 FM, Asaba (Political Broadcast: Use of campaign messages)
2. Bridge 98.7 FM, Asaba (Adverts & News: Political campaign jingle and use of campaign messages in news)
3. Crown 94.7 FM, Asaba (Advert: Use of political campaign jingles)
4. Rize 106.7 FM, Warri (Advert: Political campaign jingle)

**Enugu Zone**

1. Vision Africa Radio, Umuahia, 104.1 FM (Political Programme: Political campaign jingle less than 24 hours before the election)

## SOMETHING TO HIDE?:

### MEDIA FREEDOM UNDER SIEGE IN NIGERIA

2. Zandas FM, Owerri, 105.7 FM (Advert: Political campaign jingle less than 24 hours before the election)
3. Reach FM Owerri, 104.9 FM (Political Phone-in: Endorsement of candidate in a phone-in programme less than 24 hours to the election)
4. Solid 100.9 FM, Enugu (Advert: Political campaign jingle less than 24 hours to polling day)
5. NTA CH 12 Owerri (News: Use of campaign rally in news)
6. Odenigbo Radio 99.1 FM, Obosi (Political programme: Endorsement of political candidates by presenter)
7. Reach 104.9 FM, Owerri (Sports: Illegal announcement of election result by a caller)
8. Megaband 97.3 FM, Owerri (Advert: Political campaign and endorsement of candidate)

#### **Jos Zone**

1. Ashi Waves 99.9 FM, Katsina-Ala (News Bulletin: Use of partisan content in news)
2. BRC II FM Bauchi, Jama'are (News Bulletin: Use of political campaign in news bulletin)
3. Swomen Agro FM, Shendam (Advert: Political campaign less than 24 hours to the polling day)
4. TSBS AM, Jalingo (News: Use of partisan comments in news)
5. BRC II FM Bauchi (Misau FM) (Advert: Political campaign less than 24 hours to the polling day)

#### **Kaduna Zone**

1. Vision FM, Katsina (Advert: Political campaign less than 24 hours to the polling day)

2. Arewa Radio, Kano (Advert: Political campaign less than 24 hours to the polling day)
3. Invicta FM, Kaduna (Newspaper Review: Use of campaign captions in newspaper review)

### **Lagos Zone**

1. Raypower FM, Lagos (Newspaper Review: Use of campaign captions in newspaper review)
2. AIT Lagos (Democracy Today: Broadcast of political personalities with attires bearing party symbols and identification)
3. Inspiration FM, Lagos (Newspaper Review: Use of campaign captions in newspaper review)
4. Radio Lagos (Newspaper Review: Use of campaign headlines in newspaper review)
5. City FM, Lagos (Newspaper Review: Use of campaign headlines in newspaper review)
6. Lagos Talk (Newspaper Review: Use of campaign headlines in newspaper review)
7. LTV 8, Lagos (Political Rally: Use of hate speech at a live political rally)
8. TVC News, Lagos (Political Rally: Use of hate speech at a live political rally)
9. ONTV (Advert: Use of campaign jingle less than 24 hours to the election)
10. TVC News, Lagos (Advert: Political jingle less than 24 hours to the polling day)
11. Silverbird TV, Lagos (Advert: Use of party logo less than 24 hours to the polling day)
12. Channels TV, Lagos (Business News: Use of party logo less than hours to the election)

13. Classic FM Lagos (Newspaper Review: Use of campaign statement by analyst on newspaper review)

### **Maiduguri Zone**

1. Yobe Broadcasting Corporation, Damaturu (Advert: Partisan campaign less than 24 hours to the polling day)
2. Gombe Media Corp. Bauchi GMTV 25 (News Report: Display of party logo less than 24 hours to the polling day)

### **Sokoto Zone**

1. Vision FM, Birni Kebbi (Advert: Political campaigns less than 24 hours to the polling day).

### **Other reported actions by NBC include:**

- Closure of African Independent Television (AIT)/Ray power Stations by the National Broadcasting Commission (NBC) on June 6, 2019 over alleged serial breaches of the NBC code. The parent body of the stations, DAAR Communications immediately approached the court through an ex parte order. The court ordered the immediate re-opening of the stations pending the outcome of the case. Eventually, both the DAAR and NBC reached an out-of-court settlement.
- In October, 2020 the NBC fined three stations, that is, AIT, CHANNELS and ARISE television stations N3 million naira for what it termed “unprofessional coverage” of the EndSARS protest.
- On January 29, 2021, the NBC warned all broadcast stations against broadcasting contents related to the quit notice given to herders in the South-West region. The warning, stated in a letter titled ‘Broadcast of Crisis Involving Herdsmen, Caution’, was issued to broadcasters nationwide.

### **State Governors and Attacks on Freedom of Expression**

The Cybercrime (Prohibition, Prevention etc) Act of 2015<sup>4</sup> has been a veritable instrument by State governors to hound opponents and social media critics.

Section 24 of the law which addresses cyber stalking states:

“Any person who knowingly or intentionally sends a message or other matter by means of computer systems or network that – Is grossly offensive, pornographic or of

an indecent, obscene or menacing character or causes any such message or matter to be so sent; or He 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 or causes such a message to be sent: Commits an offence under this Act and shall be liable on conviction to a fine of not more than N7,000,000.00 or imprisonment for a term of not more than 3 years or to both such fine and imprisonment". (The fine of N7 million is approximately \$20,000)."

The exploitation of executive powers to perpetuate anti-democratic initiatives that repress human freedoms has led to the arrest, detentions and phantom prosecutions of activists, opposition politicians, bloggers, journalists among others. State governors have advanced all sorts of reasons to arrest, detain and carry out phantom prosecutions all aimed at intimidating the persons involved and their supporters with the ultimate aim of stifling the civic space. The list of those who have suffered this in recent times is too numerous to list here. But a few examples will suffice and are highlighted below.

- In May, 2019 a journalist and well known critic of the Abia State government, Obinna Don Norman was arrested by the Abia State police command, over the charge of what they described as "libelous against the state government".<sup>5</sup>
- In April, 2020 the US based Committee to Protect Journalists (CPJ)<sup>6</sup> reported that Ebonyi State Governor Dave Umahi questioned journalist Chijioko Agwu over a report about Lassa fever at a press conference and then ordered the police to take him away. "Umahi then publicly accused Agwu of publishing 'false and damaging' information that violated Section 35 of Ebonyi's new state law on COVID-19 and other infectious diseases," said Jonathan Rozen, CPJ's senior Africa researcher. Rozen said Agwu was released later without charge.
- A journalist and activist, Austin Okai, a critic of Kogi state Governor Yahaya Bello's policies suffered arrest and re-arrest by officers of the Special Anti-Robbery Squad (SARS) allegedly at the behest of the governor after he was granted bail by the magistrate court.<sup>7</sup> He had been a fierce critic of the governor and he was made to face all sorts of harassments to literally shut him up.
- Even as this study was being carried out on March 20, 2021, following renewed threats to his life, the Publisher of Daily Nigerian, Jaafar Jaafar, raised an alarm that the Governor of Kano State, Abdullahi Umar Ganduje, should be held responsible if anything happened to him for publishing videos of the governor stuffing dollars in his pockets. The journalist had published video clips of the

governor in October 2018, allegedly showing him collecting dollars, believed to be kickback payments from contractors handling various projects awarded by the Kano State Government. Earlier, in an interview with BBC Hausa on Friday March 19, 2021 the governor said they were making plans to deal with those who released the videos. In the face of the renewed threats, the journalist wrote a petition to the Inspector General of Adamu, Mohammed Adamu, through his counsel, Barrister Abdullahi Gumel.<sup>8</sup>

### **DSS and Attacks on Freedom of Expression**

The Department of State Services (DSS) has arrested journalists and media practitioners frequently thus demonstrating a deliberate attempt to intimidate the press and shrink the civic space. Some examples of these include:

- In the early hours of May 9, 2020 DSS raided the Bayelsa state home of Naija Live TV founder Saint Mienpamo Onitsha, seizing his phone. According to the CPJ, the DSS agents drove Onitsha around blindfolded for hours before taking him to a local DSS office, where he was interrogated and later released without charge on May 12.<sup>9</sup>
- Omoyele Sowore, founder of the US headquartered news site Sahara Reporters, was charged with treason after a legal dispute with Nigerian officials. Sowore, who ran against president Buhari in Nigeria's February 2019 presidential contest, was detained in August for organizing nationwide rallies against corruption and allegations of unfair elections. He was held until late December, 2020 despite multiple court orders for his release. "It is clear that the right to freedom of expression is increasingly under threat in Nigeria," said a PEN International commentary about Sowore, who was out on bail.<sup>10</sup>
- In August, 2019 operatives of the DSS also arrested and continuously detained Mr Ibrahim Dan-Halilu, a journalist and former Politics Editor of Daily Trust newspaper without clear grounds for arresting and keeping him. Dan-Halilu's only 'offence' was a post on his Facebook profile endorsing the #RevolutionNow protest championed by Omoyele Sowore, who had being detained earlier by the DSS.<sup>11</sup>
- In August, 2019 heavily armed security personnel believed to be operatives of the Department of State Security Service (SSS) popularly arrested Abubakar Idriss, popularly known as Abu Hanifa Dadiyata in his Kaduna residence. Dadiyata was the leading social media activist on Twitter that was reportedly protecting and projecting Kwankwasiyya ideology and the Peoples Democratic Party (PDP) in northern Nigeria.<sup>12</sup>

- On February 27, 2021, Tanko Yakassai, otherwise known as Dawisu, a media aide to Governor Ganduje of Kano state, was fired, arrested and detained by the DSS for criticizing president Muhammadu Buhari. He was released after 48 hours.<sup>13</sup>
- On March 4, 2021, Akanda Oro Awikonko, a Yoruba poet, who is known for speaking truth to power, was arrested in Osogbo, Osun state by the DSS.<sup>14</sup>

### **Some other reported cases of Abuse of Power that Shrink the Civic Space**

1. Alex Ogbu of The Regent African Time Magazine was shot and killed by policemen at FCT in January, 2020 during a rally by the Islamic Movement of Nigeria.<sup>15</sup>
2. Olatunji Omirin of Daily Trust was arrested and detained by the Nigerian military in January, 2020.<sup>16</sup>
3. On January 26, 2021, an online news medium, Peoples Gazette, suffered a cyber-attack, that it reported as perpetrated by the agents of the federal government. This disruption blocked the news medium from accessing its website for a few weeks. According to the Managing Editor of the medium, Samuel Ogunipe, the cyber-attack was as a result of its news report concerning the son of the president's Chief of Staff.<sup>17</sup>
4. On March 19, 2021, a citizen, Tunde Abass was arrested and detained for five days by the police for filming an abuse of human rights by the police against another citizen, Kabir Mohammed. Following advocacy by civil society activists against his incarceration, the Lagos state commissioner of police, Hakeem Odumosu, ordered his immediate release on March 24. In addition, it ordered the immediate redeployment of the erring Divisional Police Officer (DPO) for the Onipanu area, CSP Francis Ani and some of his officers for the harassment of the innocent citizen.<sup>18</sup>

### **Abuse of Laws as a tool for repression**

The Cybercrime Act has been used to harass, arrest, intimidate and detain journalists, bloggers, and other civil society activists. A number of journalists have been charged under the Cybercrime Act for 'cyber stalking', which is broadly defined as 'a course of conduct directed at a specific person that would cause a reasonable person to feel fear'.

The Terrorism Act<sup>19</sup> despite its vague definition of terrorism in Section 1(2), which prescribes the death sentence as the punitive measure for terrorism-related offences

in Nigeria, has been used to arrest, detain, and harass journalists and civil society activists. In fact, several journalists have been charged under this act.

State actors also use the excuse of national security, particularly anti-money laundering (AML) and countering financing of terrorism (CFT) measures, to harass and target critics, including civil society groups and human rights organizations. Claims that have no benefit of facts were made against activists and organizations as being conduits for money-laundering or financing of terrorism and resulted in arrests, detentions, smear campaigns, and forced closures of certain human rights groups. A classical case was the forced closure of the international humanitarian group, Action Against Hunger's main offices in Borno and Yobe States in northeastern Nigeria on September 18, 2019, following an accusation of "aiding and abetting" Boko Haram, the terrorist organization.<sup>19</sup>

Some state actors use AML and CFT laws as a pretext to target civil society organisations including human rights groups since they tend to find support in Nigeria's National Risk Assessment (NRA) for Terrorism Financing (TF) and Money Laundering (ML) (completed in 2016), which identified Designated Non-Financial Businesses and Institutions (DNFIs), of which non-profit organizations (NPOs) are a subset, as being amongst those sectors most vulnerable to money laundering (ML) and terrorist financing (TF). A number of measures proposed in the NRA for countering the ML/TF risks carry legal restrictions that could potentially constrain non-profit activity, thereby shrinking the civic space.

Meanwhile, ratings from Nigeria's National Risk Assessment for Terrorism Financing and Money Laundering have been faulted for lack of adequate evidence to support the findings. The Financial Action Task Force (FATF) does not require countries to conduct a Money Laundering (ML) assessment for non-profit organisations (NPOs). However, Nigeria's national risk assessment conducted in 2016 conducted a ML assessment for NPOs. The ML rating for the NPO sector was Medium High.

High ML risk in the NPO sector was not demonstrated, substantiated or strongly supported by analysis in the NRA (National Risk Assessment) document. This portends a high risk that the government may use a non-representative NRA to justify acts against NPOs who are active in advocacy and campaigns calling for transparency, accountability and justice delivery by government. In May 2019, the former Acting Economic and Financial Crimes Commission (EFCC) Chairman, Ibrahim Magu, called

on Nigerian state governors to focus attention on non-governmental organisations alleging that “they are the arm that strengthens bandits and fund terrorism in the country.” Magu claimed, without evidence, that some NGOs are the major source of funds for terrorist organisations and alleged that the EFCC had intercepted about 45 million from an NGO two weeks prior. To date, the details of the investigation have not been released.

The crackdown on CSOs using new regulations, for example the Companies and Allied Matters Act (CAMA) 2020 and regulations is also a case in point. The repressive provisions of the Act, particularly sections 839, 842, 843, 844 and 850 contained in Part F of the Act, are contrary to the Constitution of Nigeria 1999 (as amended), and Nigeria’s international human rights obligations. With these provisions, the government now has overly broad and discretionary powers to arbitrarily withdraw, cancel or revoke the certificate of any association, suspend and remove trustees, take control of finances of any association, and to merge two associations without their consent and approval of their members.

These restrictions, coupled with repressive broadcasting codes and Nigerian security agencies’ relentless crackdown on peaceful protesters and civil society, demonstrate the government’s intention to suppress and take over independent associations.

### **Use of the COVID-19 Pandemic as a Pretext for Shrinking the Civic Space**

The COVID-19 pandemic has been used by State actors with authoritarian inclinations to take actions and marshal out policies whose major intention is to curtail the civic space. According to a report by Victoria Ibezim-Ohaeri titled, COVID-19 and the Shrinking Civic space in Nigeria, 20

“With the same rapidity as its spread, COVID-19 seems to be taking over as the major driver of shrinking civic space in many parts of the world, displacing the popular buzzwords: national security. Growing evidence from across jurisdictions is exposing how State actors are exploiting the pandemic to stifle dissent, clamp down on civic freedoms, and push through restrictive measures, using COVID-19 as a pretext.

In Nigeria, as seen elsewhere, the COVID-19 pandemic is magnifying existing threats to civic space. While it is generally agreed that COVID-19 is a public health emergency threatening the life of the nation — necessitating the application of certain derogation measures — mounting evidence is pointing toward a deliberate exploitation of the

pandemic to accelerate other non-health agendas. The database of closing civic spaces in Nigeria is replete with records of disease containment measures radically overstretched beyond context and enforced in ways that hurt civic freedoms.”

On March 31, 2020, a COVID-19 focus was added to the database of closing civic spaces, following the spikes in human rights abuses. These have included deaths caused by security operatives enforcing the state-mandated lockdown, which was introduced to combat the spread of coronavirus.

Based on the records in the database, three notable trends have emerged revealing the exploitation of COVID-19 health emergency powers to close civic space. The first trend observed is the excessive use of force by State agents to enforce the lockdown. The overzealous conduct of security operatives and other task force officials enforcing lockdowns have resulted in torture, assaults, extortion, and fatal shootings, causing numerous deaths. In addition, eyewitness reports and video evidence have continued to emerge, showing security forces brazenly using horsewhips and weapons to enforce discipline and compliance with lockdown directives.

The second trend takes the form of State executives overreaching their constitutional powers to advance other objectives unrelated to disease control. Mimicking a federal directive that ordered a total cessation of all social, economic, and political activities in only the three most affected states of Lagos, Ogun, and the nation’s capital Abuja, several Nigerian state governors started closing state waterways, air, and land borders, prohibiting domestic travels even though border and airspace closures fall within the realm of federal jurisdiction. Whether it is the presidential directive prohibiting certain media organizations from covering the activities of the presidency, or the directive to state security agents to either flog those not wearing face masks in public, or shoot-at-sight any person that tries to escape from quarantine and isolation centers, all of these point to overbearing executive behavior disguised as emergency response.

The third trend to watch is the use of legal and regulatory tools to legitimize official restrictions on human rights. Weeks after the first index case of coronavirus infection was recorded in the country, more than 16 different state and federal regulations were hurriedly enacted to justify the ensuing derogation from constitutionally protected rights. In early May, the Nigerian parliament also attempted to pass an incredibly draconian legislative proposal, Control of Infectious Diseases Bill 2020, designed to

enlarge governmental powers to prevent and manage the outbreak of infectious diseases such as COVID-19. Civil society organizations rallied together to challenge the bill, demanding a review of some troubling provisions that: (1) granted overreaching powers to law enforcement officers or the police to apprehend persons suffering from infectious diseases; (2) breached individual privacy, confidentiality agreements, and doctor-patient data privacy; (3) empowered State agents to arbitrarily restrict freedom of association, gatherings, public entertainments; and (4) required State health officials and law enforcement officers to subjectively arrest without warrant, confiscate and demolish properties, and obtain information from any person or organization without any restraint.

One unsurprising outcome of the maze of COVID-19-focused legal frameworks enacted at the federal and state levels is the brewing political tension and jurisdictional confusion, which has seen the federal government locked in conflict with some of the constituent states of the republic. As the popular saying affirms, when two elephants fight, it is the grass that suffers. Consequently, citizens and corporate entities adhering to federal COVID-19 regulations were found to be acting in contravention of states' COVID-19 regulations, and vice versa. Scores have been arrested, detained and prosecuted for these seemingly unclear offences, reinforcing fears of foul play and targeted attacks.

The pandemic-induced violations detailed above are not new per se. Long before Nigeria recorded its first case of COVID-19 on February 27, 2020, the civic space suffered massive blows arising from a plethora of governmental restrictions framed around the objective of 'national security and national interest'. What constitutes national security or the criteria used for making such determinations are not quite clear, or they are, at best, vague. From that vagueness springs legal uncertainty and discretionary power so wide.

In sum, the COVID 19 pandemic negatively affected the state of the civic space in Nigeria.

### **Targeting of Social Media Users**

Advancements in digital technology has led Nigerians to take advantage of social media to express their thoughts through various means and ask critical questions about democracy and governance. Social media has become a very important tool for shaping public discourse in Nigeria. The authorities have struggled to maintain a

balance between regulating against extreme views and hate speech, and preserving the right to free speech. The end result has been crackdowns from those in authority. Government crackdowns not only affect journalists, activists or politicians but also ordinary citizens, particularly those who use social media.

The DSS has gone on to declare a crackdown on social media users for posting materials described as threatening to the country's peace and stability. The DSS subsequently arrested an unknown number of unnamed social media users for allegedly threatening peace and security by posting inciting statements.<sup>23</sup> The DSS was previously implicated in human rights violations including arbitrary arrests, detention without trial, and torture.

The 2015 Cybercrimes Law, which criminalizes a broad range of online interaction, was used to prosecute at least five bloggers.

### **#ENDSARS Protests**

The EndSARS protests which lasted for several days across various cities in Nigeria started as peaceful protests by young people across the country demanding an end to the brutal activities of a Police unit called Special Anti-Robbery Squad (SARS). It all began in the wake of a peaceful nationwide protest on October 8, 2020 as a result of the killing of a young man in Delta State by a SARS officer.<sup>21</sup> As the video of the killing of the young man went viral, a young lady who was a National Youth corps member who visited her fiancé in Abuja in preparation for her forthcoming wedding was also killed at about the same by some people said to be SARS officers which further fueled youth and, in fact, national outrage.

The anger spread from digital assemblies trending the #ENDSARS hashtags to street protests across over 100 cities and towns in the country. The protest was innovative and well-coordinated. Individuals including senior security persons who spoke in confidence and on conditions of strict anonymity to SERAP researchers for this project commended the attitude of the youth.

A report by the Action Group on Free Civic Space in Nigeria said: “#ENDSARS protests have been largely described as ‘different’, ‘innovative’ and ‘excellently coordinated’. For the first time ever, the countrywide protestations against systemic decay were youth-led and citizen-led, without any arrow heads. Also, protest venues were characterized by solid arrangements for food, water, private security,

non-stop entertainment, sanitation and standby medics. Nigerian celebrities added colour to the demonstrations through their direct participation in the protests and lending their voices to the demands. Protesters even cleaned the venues at the close of the daily demonstrations".<sup>21</sup>

The government's response, which delayed for some days, during which the protests continued, was to scrap SARS but said it was immediately replacing it with a new outfit Special Weapons and Tactics Team (SWAT). As the protests continued with the youths demanding far reaching reforms, the Nigeria Army stepped into the fray signaling its preparedness to assist the government to maintain law and order. From then things went downhill as thugs who incidentally were youths (called hoodlums) themselves began to attack the protesters. There have been allegations that the hoodlums were hired by people in government to stop the protests. State and federal authorities failed to provide security for the youths who were peacefully protesting by reining the thugs and hoodlums. But some of them were seen in viral video clips being carried across some cities in government-owned vehicles and unleashed to attack the protesters. All came to a head when a team of soldiers opened fire on #EndSARS protesters at Lekki toll gate in Lagos, Nigeria's commercial capital on October 20, 2020. <sup>21</sup>

All hell broke loose, so to speak, across the country as hoodlums went on rampage attacking innocent citizens, private businesses and public property. Closing Spaces Database tracked numerous incidents involving violent attacks on protesters resulting in over 10 deaths across the country and viral images in the database show use of extreme force and cruelty to quell peaceful protesters.

Similarly, during an attempted resumption of Endsars protests on February 13, 2021, tagged OCCUPY LEKKI, a large number of policemen were drafted to the venue, where no fewer than ten of the protesters were arrested and detained and subsequently released.<sup>22</sup>

### **Nigeria's ranking by Global Civic Space Rating Bodies.**

It is also critical to consider the performance and ranking of Nigeria in the global community as pertains to democratic freedoms and openness of the civic space. In December 2019, CIVICUS, a coalition of civil society groups in a global index report titled People Power Under Attack 2019 stated, Democratic freedom is shrinking in Nigeria. According to the report: "Nigeria has slipped from being an "obstructed" to a "repressed" nation – the second worst rating a country can have."<sup>23</sup>

## SOMETHING TO HIDE?:

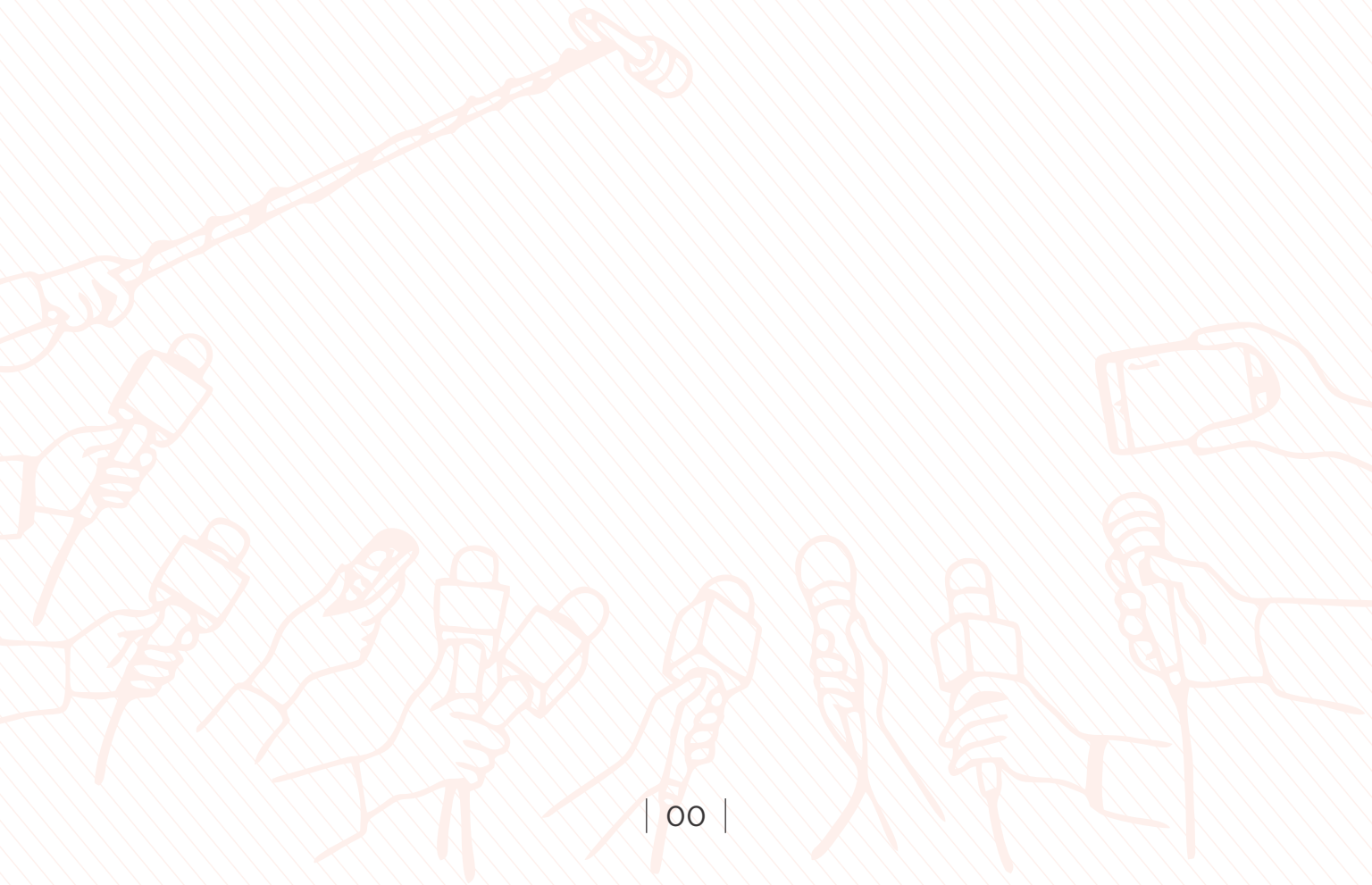
### MEDIA FREEDOM UNDER SIEGE IN NIGERIA

Nigeria is now ranked among 38 countries in the same category like Iraq, Brunei, Pakistan, India, Madagascar and Turkey.

According to Matthew Reading-Smith, Communication Coordinator of CIVICUS the term 'repressed' means that democratic freedoms such as the freedom of association, peaceful assembly and association are significantly constrained in Nigeria. The ranking was as a result the government's clampdown on journalists, activists, its intolerance to dissent and opposition, and a renewed drive to regulate the social media by the National Assembly.

Each country's civic space was rated in one of five categories – open, narrowed, obstructed, repressed, or closed – based on a methodology that combines several sources of data on the freedom of association, peaceful assembly and expression.

Also, in its 2020 annual World Press Freedom Index, RSF ranked Nigeria 115 out of 180 countries, in which one is considered the freest.<sup>24</sup>



### 3. RESEARCH METHODOLOGY

This report was researched and written between February and March 2021. The methodologies detailed below were used to gather the relevant information.

A detailed desk review of evidence of infractions and restrictive actions concerning the state of civic space, freedom of expression and media freedom in Nigeria was carried out.

This involved a detailed review of the legal frameworks restricting freedom of expression and media freedom in Nigeria and a review of documented cases of assault on civic space, attacks and harassment, intimidation of journalists, bloggers and activists by the government in the two-year period from 2019.

Independent and individual in-depth interviews, on the current policies and legal framework as pertains to the state of the civic space and media rights in Nigeria, were conducted to collect the views and opinions of selected stakeholders. The interviewees were asked key questions outlined for the assignment. The interviews were also used to clarify questions arising from the desk review. The list of interviewees included government officials from the Federal Ministry of Justice, Nigeria Police, National Human Rights Commission, (most government officials spoke on conditions of anonymity as they did not want to be quoted), media/journalists, civil society activists, opposition politicians, civil society organisations (CSOs) and international human rights bodies and organisations.

Relevant interviews earlier carried out within the review period and other information published in books, reports, and journals and scholarly opinions were also analyzed. The data collected was analyzed by using both quantitative and qualitative analysis methods.

#### 3.1 Literature Review

The UN Office of the High Commissioner for Human Rights defines civic space as “...the environment that enables civil society to play a role in the political, economic and social life of our societies. In particular, civic space allows individuals and groups to

contribute to policy-making that affects their lives, including by accessing information, engaging in dialogue, expressing dissent or disagreement, and joining together to express their views.”<sup>1</sup>

The United Nations High Commissioner for Human Rights declared during the Dublin Platform for Human Rights Defenders in October 2019, “Civil society participation is the lifeblood of any healthy democracy and society. When civil society channels flow freely, it means vibrant debate, freedom of thought and opinion, and public engagement in policy.”<sup>2</sup>

Constitutionally-protected rights such as Freedom of Thought, Freedom of Expression, Freedom of Association and Freedom of Assembly which are in Chapter IV of the Nigerian 1999 Constitution (as amended) which make for peoples’ engagement among themselves and with the government and the general public are affected when the civic space is closed. The interference with any of these freedoms may invariably result in the deprivation of other rights. Again, by virtue of these constitutional guarantees, every member of society is a recognized participant in the civic space arena.<sup>3</sup>

Freedom of Expression guarantees the right to express opinions or views on an issue through any media of choice irrespective of how unsatisfactory those views are in the estimation of others. The freedom of the Press or media rights are concomitant to this right. Media rights refers to the freedom of the press to communicate ideas, opinions, information or criticize the economic, political, social and even religious institutions of the country without been subjected to any form of harassment, intimidation or blackmail.

The Nigerian Constitution guarantees the Freedom of Thought and thus protects the rights of citizens to hold and express religious or political views, or demand and agitate for the betterment of specific target groups and associations without let or hindrance. Arising from the freedom of thought and expression are the freedom of association and assembly which permit citizens to form and belong to any group or society for the propagation of their thoughts, demands and ideas, or belong to any political group or party of choice, to hold, disseminate, and when or where they deem it necessary. agitate or carry out peaceful protests in support of such political ideologies or demands.

There is a virtue in the opening up of the civic space. It enables all citizens in relishing associational life in a democracy. Tocqueville one of the leading figures in the liberal conception of civil society avers that: "An association consists of simply in the public assent which a number of individuals give to certain doctrines and in the engagement which they contract to promote in a certain manner the spread of those doctrines... An association unites into one channel the efforts of divergent minds and urges them vigorously towards the one end which clearly points."

Thus, opening up of the civic space allows for associations formed by people for the achievement of common purposes outside of the state and guaranteeing protection against the tyranny that might result from an electoral contest. It makes for stabilizing the social and political status quo. It is thus vital in promoting and sustaining liberal democratic culture but with active involvement of political society. This culture includes; transparency, accountability, public policy monitoring and redress; making the democratization process responsive to people's needs; broadening of the political space; creating a political system that emphasises the rights and obligations of majority of the people; legitimizing the political and public policy processes, building social capital, and promoting public service delivery; protecting citizens especially the poor, minority groups, and women against the excesses of the state. 4

Indeed, a healthy democracy is founded on pluralities of organized social groups which an open civic space guarantees and through which citizens learn the arts of associational life together, practice the procedure of democratic governance, and articulate and express group interests to policy makers. For it is through civic or civil organizations and with political society that people participate in politics, development and democracy. All these helps to build values and a network that create a stock of "social capital", needed for the "deepening of democracy".<sup>4</sup> Democracy requires a vibrant and autonomous civil society and an effective state capable of balancing the demands of different interests groups. Moreover, it is accepted wisdom that an opening of the civic space is indispensable for democracy, so much so that one of the best ways to achieve democratization is to strengthen civil society.

However, for various reasons, governments around the world including in Nigeria deploy various tactics to shrink the civic space and restrict the media essentially restricting the ability of citizens to engage, critique government failings or hold dissenting views. Some of the reasons that lead to these restrictions range from what they term 'security reasons', 'national interest' which may be other words for regime

security or re-election ambitions to restrain political opposition or attempts to cover up the excesses of the governments.

Civic spaces are closed when the limitations on citizen's rights pose severe constraints to their ability to organize freely, including free expression, assembly and association, making civic engagement between themselves and other state and non-state actors difficult.

In Nigeria notable manifestations of closing civic spaces take the form of repressive actions by the authorities—such as Attacks on rights to Freedom of Expression and Media Freedom; Prevention or banning of Peaceful Assembly; Attacks on Freedom of Association and related rights; Targeted intimidation of critics and protesters through arbitrary arrest and prosecutions; Pressure on media institutions into self-censorships; Harassment of activists by legislations; and state-sponsored impediments to access to Justice.

At the moment these includes the various anti-social media bills at the National Assembly; outrageous interpretation of existing laws—like the frequent use of the Cybercrimes Act to punish social media users; the retention of restrictive laws—which includes charging journalists or social critics for the crimes of sedition and criminal defamation; and the excessive use of force by security agents to quell protests and punish citizens beyond the prescriptions of the law.

Previously, particularly under the military rule, media practitioners and activists were the major targets of government crackdowns. Advancements in digital technology have helped to expose the tactics used to perpetuate these crackdowns. Technology has also widened the umbrella of activism, allowing ordinary people to have greater access to even cyber spaces for civic action. The internet and social media easily handed people especially civil society activists a limitless weapon for civic engagement, expanding the civic space beyond the traditional media, the streets and town halls. Likewise, the scope of government restrictions has increased, extending to ordinary citizens whose actions make governments uncomfortable and tries to hold them accountable or hold them to scrutiny.

### **3.2 Key Interviews and Individual Experiences**

Journalists, media practitioners, and civil society activists have faced arrests, harassments, detentions, phantom prosecutions and had their rights violated, with all

these actions negatively affecting the state of the civic space. This section explores the experiences and views of individuals whose rights have been violated thereby leading to the shrinking of the civic space.

### **FRAMED BY LG BOSS, ARRESTED AND TORTURED BY POLICE FOR REPORTING IN AN ONLINE MEDIUM**



**Edafe Oghenebrume**

Edafe Oghenebrume is a civil society activist who blew the whistle on corruption in an online medium and was framed by the Executive Chairman of Agbado/Okeodo LCDA over phantom allegations of arson and was arrested and tortured by the police. Here is his story:

"It has been a long battle of intimidation and harassment of my person by the Executive Chairman of Agbado/Okeodo LCDA and some of his cohorts since I took up the challenge of exposing both financial and administrative atrocities being committed by officials of the council area as a stakeholder and former Chief Press Secretary to the late Executive Chairman, who passed on few months ago.

I actually had to voluntarily resign from the service of the council area when it was no longer comfortable for me to bear the level of corruption going on in there.

Especially all violation of cashless policy and financial principles of the state and federal government which states that all financial transactions should be done via electronic cash transfer and through bank transactions. But ironically, the incumbent

Executive Chairman still allowed payment by cash to cover his tracks and not to be traced while perpetuating corruption acts.

As a result, I had to consistently expose every fraudulent act and official transactions by the local government council in question which are not carried out in compliance with laid down financial rules and regulations. Instead of debunking those allegations and facts, the Executive Chairman resulted to blackmail, harassment and intimidation. Firstly, on 7th December, 2020, I was invited by the police authority at Zone 2, Onikan - Lagos to defend a petition written by both the Head of Education Department and the Internal Auditor over an issue I raised on my local online news medium concerning the payment of ghost workers on the payroll of the local government and diversion of funds under the guise of running non-existing adult literacy centres funds.

Ironically, the police later claimed that they couldn't investigate the financial records of the council after I provided evidence to back up those allegations I earlier raised.

When I discovered that police couldn't make headway on the case, I decided to write a petition to the state house of assembly.

While the case at Zone 2 was going on without headway, the Executive Chairman and his aides accosted me on 18th December, 2020 around the local government council secretariat while I was trying to board a BRT bus at the terminal along the same corridor.

Shockingly, I was manhandled, dragged by the police orderly, attached to the Executive Chairman, into the premises of the council secretariat.

While this was going on, one of the aides was sent to buy one litre of fuel at the filling station which was used as evidence to frame me and invariably accuse me of trying to set the council secretariat ablaze.

Surprisingly, the Divisional Police officer of the area showed up with her patrol team at the scene of the incident and arrested me. They later took me in the patrol van to their station, took my statement and thereafter transferred the case to the State Criminal Investigation Department SCID at Panti, Yaba - Lagos.

I was mentally tortured, physically assaulted by the Investigative Police Officers (IPOs) but was later released on bail within 24 hours by the Police due to pressure and

interventions from the human rights community and my fellow comrades from various organisations through physical appearances, phone calls and agitations on social media platforms after they couldn't establish a case of arson against me.

Back to my petition to the house of assembly, I also discovered that corruption in our country is deep and systemic as those who are supposed to checkmate the excesses of the executives also see their oversight functions as meal tickets and an avenue to get their own shares from the loots."

### **CRIMINALIZATION OF PEACEFUL EXPRESSION**



**Omoyele Sowore**

*Omoyele Sowore, is founder of the US headquartered online news platform, Sahara Reporters. He ran against Buhari in Nigeria's February 2019 presidential contest. Sowore organized nationwide rallies against corruption and allegations of unfair elections. He was arrested by DSS, detained for long periods even when courts granted him bail and finally charged with treason after a legal dispute with Nigerian officials and for expressing his views. In this interview with SERAP, he avoided dwelling on his experiences of his several arrests, detentions and arraignments but opted to give counsel. His words:*

"The main issue with the civil space is two-fold. In the first, the government has muscled the civil space and on the second, the civil space guardians have abandoned the space or largely capitulated. The civil space is now mostly an academic or virtual space, there is no contest for the space by the civil society groups which should be guarding the civil space jealously."

In Sowore's words: "to expand the civic space we must contest with enemies of the civil space and not abandon the space to those shrinking the space with impunity".

## **ARRESTED AND TORTURED FOR FILMING POLICE BRUTALITY1**



**Kofi Bartels**

*Kofi Bartels is a broadcast journalist with Nigeria Info 92.3 FM, a radio station based in Port-Harcourt, South-South Nigeria. On 4th June 2019 at about 10:15 am, officials of the Special Anti-Robbery Squad (SARS) of the Nigeria Police assaulted Kofi. He was then arrested, detained and tortured for attempting to film policemen beating up a teenager in the city of Port-Harcourt. He told Amnesty International in an interview:*

"I brought out my phone and took a video, but while I was at it and before I could even say 'Jack...' one of the men brought out a 2 by 2 inches plank of wood and went for my knees. He kept smashing and hitting at my knees. When he stopped, he ordered me to get into the bus. I quickly complied, but due to the injuries on my knees, I couldn't move very fast. So he pushed me into the bus and handcuffed me to a suspect. Then they brought out their guns and shot into the air as they sped off. In the bus I was hit, I was slapped. As they were driving away, I felt that my right knee was shattered. I begged them to let me go. I even offered to bail myself out, because I was afraid that anything could happen on the way. They were filled with inexplicable rage when they were beating me."

Kofi was taken to the SARS headquarters in Port -Harcourt, where he was detained in a room and tortured. "My knee was swollen, so I had to drag myself out of the bus on my

buttocks. I was taken to a room; it looked like a detention room, it was not like a cell, but a room. My phones were confiscated. Two of the four policemen engaged in slapping me one after the other and beating me. Another two joined in beating me up when they heard I had filmed what they had been doing. For about forty-five minutes, I was slapped about. I suffered from hearing loss at a point, I couldn't hear! At a point, they took my shoes from me. It was quite unfortunate. I was beaten black and blue. I was not allowed to sit on a chair, I was on the floor on one leg.

After a while, I was told I was going to be thrown into jail and that the beating was just the beginning. One of them said that day was my end in Rivers State. That I had been running my mouth off on radio and discouraging them. They said that because I had filmed them, they had left the boy alone to focus on me. One of them questioned the officers why I was brought to the office and that they should have 'wasted' me."

After five hours of torture and interrogation, word got to his neighbours and colleagues and he was released. He told Amnesty International, "The thing was in the news and the head of SARS came to our office and apologised, that the officers had been misguided. After then, the Provost Marshal of the Police in Rivers State invited me for investigation. They said an order came from the IGP in Abuja that they should investigate."

Kofi followed up on his case and attended the orderly room trial of the SARS officers who assaulted him, but he is not sure if justice was served as the case seemed to have stalled without a tangible outcome. He has filed a fundamental human rights enforcement case against the Nigeria Police. The incident impacted him severely: "Up until now, when I walk I feel pain in my leg and I can't walk as well as I should. I had nightmares at night. I would wake up with bad dreams and all that. I had to talk to a psychologist".

*(Culled from Endangered Voices: Attack on Press Freedom in Nigeria- a publication by Amnesty International)*

## **DETAINED FOR TAKING PHOTOS OF BRUTALITY BY STATE OFFICIALS**



**Mary Ekere**

*Mary Ekere is a journalist with The Post Newspaper – a local tabloid based in Uyo, Akwalbom State, South Nigeria. On 16th September 2019, officials of the Akwalbom State Environmental Protection and Waste Management Agency assaulted Mary for filming their brutality against street traders in the city with her mobile phone. She told Amnesty International:*

“On that Monday evening, I was passing by Ibom plaza when I saw some people from the environmental sanitation board assaulting and arresting street traders. I was only trying to do my part and (perform) my duty of social responsibility and service as a watchdog. In the course of my taking pictures, I was manhandled and bundled into their waiting vehicle, along with a young man they had arrested. I could not count the men, there were many. They took my phone. About three of them lifted me into their vehicle. My clothes were pushed up as they carried me into the vehicle, I was wearing a skirt. They hit my leg on the metal door of the vehicle. Inside the vehicle, one of the men hit me on the chest with his elbow and then pushed me into a tight corner. He said that they would not adjust my leg [which was tightly stuck] and that was what I deserved. Then they drove off to the Environmental Court.

By the time we got to the Environmental Court, the magistrate had left. This was around 4:00pm. They took me to their office. We spent a few minutes there and then drove again to the court to check if the magistrate had returned, because they had put

a call through to her. Upon getting there, the magistrate was still not there, so they had to drive out again. This time, straight to the prison and [they] dumped both of us there. So, I stayed in prison for three days.

At the prison, the prison officials did the necessary documentation and I was taken to the female cell where my weave [artificial hair extension] was taken out. I wore the clothes I had on the day I was arrested. I was not given water or food. It was after some time that one of the inmates gave me bread to eat. I was barefoot until Tuesday, the day I was to appear in court, when someone gave me slippers to wear. They didn't even allow me to make a phone call to anybody. I used the phone of the young man arrested with me to call my elder brother, who related the information of my arrest to my office. I was in prison that Monday night.

On Tuesday, I was called by prison officials, given the prison uniform and taken to court. In court, I was questioned by the registrar and I pleaded not guilty to the charges of 'obstruction of duty' and 'assault' levelled against me. So, I was granted bail and there was also a fine of N200, 000 if I failed to appear in court on the stated date. My dad was in court and he met the bail conditions and signed everything, but the magistrate left before he could sign to authenticate my release. It was only my case and that of the boy who was arrested with me that were called in court that day. The case was adjourned until 19 September (2019). The magistrate left the court just after 2:00pm. She did not wait to sign the bail bond for my release, so I was taken back to prison again where I spent another night until members of my union (NUJ) told the state government and the Attorney-General of the state that if I was not released by 12 noon the next day, they would stage a protest.

According to reports, at a few minutes before noon, the Attorney-General of the state reached out to the magistrate who was to sign the document (bail bond) for my release and directed her to do so immediately. That was how I was released on Wednesday, having spent three days in prison custody. I was taken to court again the next day, where the magistrate insulted me. My colleagues were there in court and they can testify to what happened in court that Thursday. She said she had read all manner of things that the union (NUJ) had written and what was said in the media and that she was not bothered and that it was none of her concern. She also said that the Attorney General had to call her. She said, 'if a man has sex with his wife would you go ahead and snap them, all because you are a journalist and then she ordered me out of the dock. She said, 'Get out of the dock.' Those were her exact words.

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The Attorney-General had gotten me a lawyer, because before then, there had been no legal representation for me when I was taken to court. The Attorney-General reached a lawyer to represent me, but the magistrate said that the Attorney-General had no right to send anybody or representative and that rather, the Attorney-General should file an appeal to her to discontinue the case. The case was struck out and I was ordered out and I walked out of the court room. Then the magistrate called me back to take my phone that had been confiscated. She told me to delete the picture I took from my phone, which I did before my phone was finally released to me. On Wednesday when I was released, the NUJ pleaded with me to let the state government handle the case. The NUJ told me that the case against me in court would be struck out and that I would be paid damages and compensation, and that I should allow them to handle the case with the state government. So, I am still waiting. I am yet to hear from my state chairman (State Chairman of the NUJ).

I want all the wrongs done against me to be made right. I was lucky that I was able to make contact with the outside world, because while in prison, I met people who have been detained for over five years and no one even knows that they are there. I would have been detained like them without anyone knowing my whereabouts. Also, what if I was not a journalist and no-one was able to speak out for me? What would have been my fate? What would have been the fate of others? Who will be the next victim? These are questions that need to be addressed."

*(Culled from Endangered Voices: Attack on Press Freedom in Nigeria- a 2019 publication by Amnesty International)*

## **JOURNALIST ACCUSED OF CYBERSTALKING FOR EXPOSING CORRUPTION**



**Obinna Don Norman**

*Obinna Don Norman is an investigative journalist and the owner of The Realm News – an online news medium in Lagos, South West Nigeria. On 1st March 2019, police arrested Norman during a talk show at a local radio station in Umuahia, Abia State, South-East Nigeria. He faces charges of cyberstalking under the Cybercrimes Act.<sup>26</sup> Obinna told Amnesty International:*

“Since 2008, I have published the exact amount of funds accruing to Abia State from federal allocation and reallocation. I have done that several times through The Realm News and my Facebook account, for those who cannot access the website. So, after we publish in the Realm online newspaper, I do so on my Facebook page. I also wrote some articles exposing how many contracts the Abia State government claims were awarded to contractors were never executed, even though they were approved and announced on radio as done. Those were also part of what I wrote in my book. The Abia State government was not comfortable with the revelations I made, because for years nobody had ever challenged the government of Abia State. For a long time, the corruption in Abia State was not actually in the news. What you would hear is how they (government) have done this and done that and this is what I was saying in most of my publications.”

On 23rd December 2018, Abia State police declared Obinna wanted via a special police gazette bulletin. In the declaration, the police accused him of cyberstalking, sending and posting offensive false messages by means of a computer system and network,

sedition and blackmail. On 9th January 2019, his lawyer filed a suit for the enforcement of fundamental rights at the Abia State High Court and thereafter, secured an injunction preventing the police from arresting him.

Obinna continued to speak out until he was arrested in Umuahia in February 2019. He told Amnesty International: "I went on live radio to discuss Abia State allocation and the Paris Club Fund, how pensioners in the state have not been paid since 2013 and how the state government was borrowing. That was my fourth time on live radio to discuss the problem in Abia State. At about 11:00am, I was still on air when suddenly, eight men in mufti, led by a Superintendent of Police (SP), came into the studio and interrupted the radio programme." Police took Obinna to the Abia State police command, where he was detained for five hours without access to or any form of communication with his lawyer. He was, thereafter, arraigned at a Magistrate Court a few minutes before the official closing time of the court, therefore his case was not heard.

The Magistrate, a woman, said that it was almost 5pm, so she could not take my case. Again, they took me to another Magistrate Court in Umuahia and the magistrate said that he had no jurisdiction and that I should be remanded in custody until 2nd April 2019.

"At the hearing, when my lawyer came to court, he discovered that my charge sheet had been amended to include kidnapping, illegal possession of firearms and inciting violence, in addition to the charges brought against me. Due to the additional charges, the magistrate ordered that I be remanded in prison until 24th April 2019. My lawyer then filed an application for my bail and the application was granted on 8th April and the case is still ongoing. (An) attack on journalists in Nigeria is an attack on freedom, and attack on democracy because a democracy without free press cannot survive. Journalists in Nigeria cannot be exonerated from these attacks. They allowed the government to continue with these attacks. They defend the government and take sides. Journalists sold themselves to the government so the government is taking advantage of this vulnerability." he told Amnesty International.

*(Culled from Endangered Voices: Attack on Press Freedom in Nigeria- a 2019 publication by Amnesty International)*

## **PUBLISHER ARRESTED, TORTURED, DETAINED AND CHARGED IN COURT ON TRUMPED UP CHARGES**



**Agba Jalingo**

Agba Jalingo is the publisher of a privately owned news website CrossRiverWatch. On 22nd August, 2019 he was hounded like a criminal from his home in Lagos in the middle of the night by armed men on the orders of Cross Rivers State Governor Benedict Ayade. He was detained for days, tortured and arraigned before a Federal High Court in Calabar, Cross Rivers State with trumped-up charges of disturbing the public peace, terrorism, cultism and treasonable felony for his writing and social media posts on alleged sleaze involving Governor Ayade in the 500 Million Naira appropriated and approved for Cross River Micro Finance Bank.

If found guilty, Jalingo could face up to three years in prison for the disturbance charge and up to life in prison for the treason charge of attempting to topple the state governor. The matter was so incredulous that Nobel laureate Wole Soyinka in reaction to the trial of Jalingo pointed out thus: "this is a dishonest service to silence the people by government which has no answer to give...it is one of the most absurd political arrangement for a non-sovereign government to claim there is an attempt to topple it". Jalingo shares his travails here with SERAP:

"I wrote an accountability article calling on the governor to account for money that was earmarked for the opening of a micro finance bank in our state capital, Calabar in Cross River State that did not go down well with the governor. He got me arrested of course on trumped-up charges of treasonable felony, terrorism, cultism and an

attempt to overthrow him and the president of Nigeria! As ridiculous as that sounds, it was real and I was taken to court.

I was detained in police custody for 34 days without trial, then taken to prison, then spent a total of six months cumulatively. (I spent) 179 days before I was released. But I was arraigned in court and I am still on trial for reasons I cannot explain myself.

In the police station it was very horrifying. There were very tough moments. In the prison as well there were very, very tough moments. Everyone out there should know what it means to have your freedom taken away. At the police station I was chained to a deep freezer for weeks on my hands and legs. If I want to eat, the handcuff will be removed before I will eat and they will put the handcuff back afterwards. I don't know the reason why because I was not violent. I didn't show any sign of it. It appears there were orders from somewhere that I should be humiliated. But I kept a smile on my face because my conscience wasn't guilty of anything regardless of what was written down on paper against me.

But the experience has been worth the while. I had some great friends, some comrades who made life in prison a little more tolerable for me. Amnesty International, Comrade Richard Akinnola, Barrister Ubani, Liborious, Deji and so many people you can't name them. And of course my staff in the office. They came out so strongly and we all went into it together. My family and God gave us strength to weather the storm and today we can talk about it.

We thank God we are fine today but we must continue to struggle. We must not keep quiet. The state of the civic space in Nigeria presently and very unfortunately is getting very repressed on a daily basis in dimensions we have not seen in a very long time. We live in moments where the AK47 is prospering very well. It appears to be the tool that those who claim to be democratic have respect for. And those who campaign to give voice to the people are clamped down every day. So serious activists, journalists are harangued and harassed, packed into (a) Black Maria, packed into police cells and into court rooms every day when those who are doing violence are being negotiated with and paid ransoms running into millions of naira. So we can say the civic space is repressed under this administration.

Protest(s) and peaceful demonstration(s) have been banned by this administration as it concerns the active civil society made up of young people. Every time you talk about

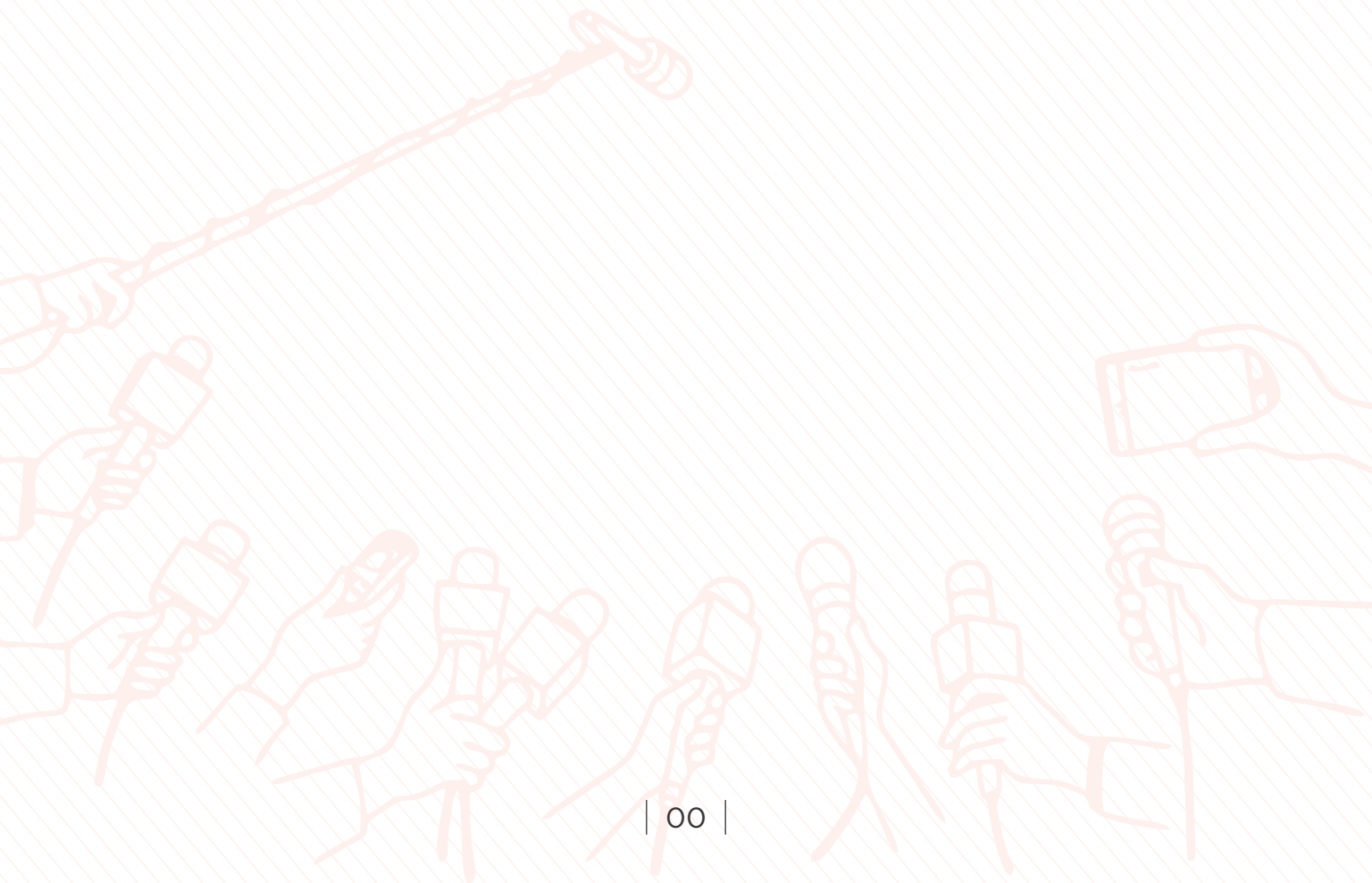
## SOMETHING TO HIDE?:

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protest, the government brings their tanks out. And across the country there are records that this government has locked up more journalist than (the)two previous governments put together.

So the civil space in Nigeria is really suffocating but we must still struggle. We must push back. We must not just keep talking but we must make sure we raise a new generation of younger voices whose voice should necessarily be louder than ours to make sure that we (the people) reclaim this space that is shutting down in our faces every day.

I think the time must come when the Nigerian people must get fed up with what is going on and demand the need to retake this country that their voices must be heard. I think that it is time for the government to realize the palpable tension in the air and know that they cannot continue to tie the people down forever. That it is better to create opportunity for the people to talk how to increase freedom in this country than to continue to think they can use force to keep the people down.”



## 4. INTERNATIONAL AND NATIONAL LEGAL FRAMEWORKS

This section aims to assess international and national human rights frameworks to better understand the legal environment under which the media and civil society operate in Nigeria and the possible impact on the civic space.

### Provisions of International and Regional Instruments

#### International Covenant On Civil and Political Rights

As a signatory to the International Covenant on Civil and Political Rights (ICCPR),<sup>1</sup> there is a legally binding obligation on Nigeria as a State Party to respect, protect, promote and ensure that all humans enjoy the rights recognized in the Covenant. It further provides that each State Party undertakes to take necessary steps to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant.

Under Article 19 of the ICCPR, the right to freedom of expression includes the “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 a person’s choice”.

It states that: The exercise of the rights provided for in paragraph 2 of this Article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order, or of public health or morals.

#### African Charter on Human and Peoples’ Rights (ACHPR)

Article 9 of the African Charter on Human and Peoples’ Rights<sup>2</sup> establishes the right to freedom of expression and access to information. It provides as follows:

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

Unlike the provisions of the ICCPR, this provision of the African Charter does not contain any restrictions.

In 2002, the African Commission on Human and Peoples' Rights (ACHPR) adopted the Declaration of Principles on Freedom of Expression in Africa. The declaration was meant to expand the scope of the right to freedom of expression and access to information in the African Charter.

**Article II of the Declaration succinctly states that:**

1. No one shall be subject to arbitrary interference with his or her freedom of expression.
2. Any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary and in a democratic society.

**Article XII of the Declaration further states that:**

States should ensure that their laws relating to defamation confirm to the following standards:

- No one shall be found liable for true statements, opinions or statements regarding public figures which it was reasonable to make in the circumstance,
- Public figures shall be required to tolerate a greater degree of criticism, and
- Sanctions shall never be so severe as to inhibit the rights to freedom of expression, including by others.

2. Privacy laws shall not inhibit the dissemination of information of public interest.

The Declaration, which is currently under review by the ACHPR, seeks to address new areas and advances in technology such as access to information online.

The ACHPR has also adopted a number of resolutions regarding freedom of expression and press freedom. These include the Resolution on the Deteriorating Situation of Freedom of Expression and Access to Information in Africa 2010 and the Resolution on the Safety of Journalists and Media Practitioners in Africa 2011.

Article 20 of the African Commission Declaration of Principles on Freedom of Expression and Access to Information in Africa, requires that: States shall guarantee the safety of journalists and other media practitioners, take effective legal and other measures to investigate, prosecute and punish perpetrators of attacks against journalists and other media practitioners, and ensure that victims have access to effective remedies.

## **The Constitution of the Federal Republic of Nigeria**

The 1999 Constitution of the Federal Republic of Nigeria (as amended)<sup>2</sup> is the supreme law of Nigeria. It guarantees the freedom of the press, which is one of pillars of the right to freedom of expression. This is clearly outlined in Section 39 subsection (1) and (2). Subsection (1) provides that “every person shall be entitled to freedom of expression, including freedom to hold and to receive and impart ideas and information without interference.” Subsection (2) states that “without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinion.” Subsection (2), however, states that private ownership of a television or wireless broadcast station for any purpose whatsoever must be authorised by the president. Section 45 of the 1999 Constitution (as amended) places limitations on the freedom of expression in the interest of defence, public safety, public order, public morality or public health. The restriction of press freedom on these grounds is applicable to print, electronic, and online media.

In addition to the Nigerian constitution, there are domestic legislations such as the Freedom of Information Act and the Cybercrimes Act, that impact on the civic space and press freedom in Nigeria

The National Broadcasting Commission (NBC) and the Nigerian Press Council perform regulatory functions which have a direct impact on freedom of expression in Nigeria.

## **The Freedom of Information Act, 2011**

The Freedom of Information Act<sup>3</sup> was enacted on May 28, 2011 as a specific law to facilitate rights to access to information in Nigeria and to enable transparency.

The law provides access to public records and information, making them freely available, subject to the extent consistent with the public interest and the protection of personal privacy. The 32 sections of the Freedom of Information Act extensively address a wide range of issues relating to access to public records. These include the right of access to public information, records of information to be kept by public institutions, applying for and obtaining information and classes of information on which access ‘may’ or ‘must’ be denied.

Journalists, activists and civil society that SERAP interviewed for this research said that often, their requests to the authorities for information are met with a refusal,

particularly when regarding the use of public funds, accountability and corruption. The inability to access public information presents a key challenge in the implementation of the Freedom of Information Act by the Nigerian authorities. The Official Secrets Act restricts access of journalists and other persons to official information.

### **The Cybercrime Act (Prohibition, Prevention, Etc) Act, 2015**

The Cybercrime Act 2015 addresses offences related to the prohibition, prevention, detection, prosecution and punishment of cybercrimes in Nigeria, as well as promotes cybersecurity. The Cybercrime (prohibition, prevention, etc) act violates the right to freedom of expression, as guaranteed by the Nigerian Constitution.

Section 24 (1)(a) of the Cybercrime Act states that “any person who knowingly or intentionally sends a message or other matter by means of a computer system or network that is grossly offensive, pornographic or of an indecent, obscene or menacing character or causes any such message or matter to be so sent” has committed an offence under the act and shall be liable for punishment.

Similarly, Section 24(1)(b) provides that any person who knowingly or intentionally spreads messages or other matter by means of a computer network system “for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or causes such a message to be sent” faces the same possibility of punishment.

Since the passage of the Cybercrimes Act, state actors in Nigeria and their agents have frequently used the provisions of the Act, particularly section 24, to harass, intimidate, arbitrarily arrest and detain, and unfairly prosecute journalists, bloggers and media activists who express views perceived to be critical of the government, whether at the federal or state levels, and of government officials.

The Act does not define the use of vague terms like “insult”, “inconvenience,” or “annoyance” which leaves a wide room for vague or even bogus interpretation. And further makes it easy to be used to harass media practitioners, journalists, and bloggers. Many journalists have been charged with ‘cyber stalking’, which is vaguely and overly broadly defined as 'a course of conduct directed at a specific person that would cause a reasonable person to feel fear'.

The act makes sending a message which is 'grossly offensive', 'indecent' or 'menacing' a crime. If a person knows a message is false, and it is sent to cause 'inconvenience' they can also be charged with 'cyber stalking'. Anyone who transmits a 'communication' which contains a threat to harm the reputation of another person, commits a crime. If convicted, a journalist could face three years imprisonment or a fine of seven-million Naira or both according to this law.

### **Terrorism (Prevention) Act 2011 As Amended by Terrorism (Prevention and Prohibition) Act 2013**

This Act provides a legal framework for addressing acts of terrorism and related crimes. The Terrorism Act covers terrorism as it relates to national security as well as issues of arrest, jurisdiction, and terrorism funding and related crimes.

Section 1(2): Anyone who "does, attempts or threatens any act of terrorism," "omits to do anything that is reasonably necessary to prevent an act of terrorism," or "assists, facilitates, organises or directs the acts of persons or organisations engaged in an act of terrorism," "incites, promises or induces any other person by any means whatsoever to commit any act of terrorism" is guilty of a terrorist offence. If found guilty, the punishment can be up to death penalty

Despite its vague definition of terrorism in Section 1(2), it prescribes the death sentence as the punitive measure for terrorism-related offences in Nigeria. The authorities have charged several journalists under this act.

Section 12(2)(a) of the Terrorism Act (as amended) states: A person or body corporate who knowingly in or outside Nigeria directly or indirectly, willingly does, attempts or threatens any act of terrorism, commits an offence under this Act and is liable on conviction to maximum of death sentence.

The Act also provides security and intelligence officials with broad and overriding powers to search, arrest or detain individuals suspected of terrorism, without judicial oversight. Section 25 (a-e) of the Act empowers the National Security Adviser or Inspector General of Police to enter and search any place, persons, or vehicle "without warrant", if the officer has reason to suspect that an offence is being committed. The officer may also search, detain, and arrest any person if he has a reasonable suspicion that the person has committed or is about to commit an offence under the Act.

Section 26 of the Act empowers the Attorney-General of the Federation, the National Security Adviser or the Inspector General of Police “for the purposes of the prevention or detection of offences or the prosecution of offenders give such direction as appear necessary to any communication service providers in intelligence gathering”.

Section 27 Subsection (1) allows a court to "grant an order for the detention of a suspect" for 90 days, which the court can renew for another 90 days, until "the conclusion of investigation and prosecution". This would allow for indefinite detention.

Section 28(1) also allows the detention of a terrorism suspect for 24 hours by security officers without access to any other person except the suspect’s medical doctor and the detaining agency’s lawyer.

The authorities have charged several journalists under this act. The wide powers this act provides give room for abuse by state actors and officials of security and intelligence agencies, particularly in declaring anyone a terrorist. The abuse of these powers is often applied in the arrest and detention of journalists, activists, and harassment of civil society actors as documented in the desk review of issues concerning civic space in Nigeria and cases of journalists and media activists interviewed.

Anyone prosecuted under the Cybercrime and Terrorism laws run the risk of fines, imprisonment and a death sentence, making the expression of views and opinions through print, electronic or social media in Nigeria a dangerous matter altogether.

### **Existing Media Laws in the Country**

1. Nigerian Broadcasting Commission Act
2. Nigerian Press Council Act
3. Official Secrets Act
4. Publication of False News in Newspapers
5. Provoking Breach of Peace by Offensive Publication
6. Cybercrimes (Prohibition) Act
7. Printing Presses Regulation
8. Power to Prohibit Importation of Publications
9. Publication of False News with Intent to Cause Fear and Alarm to the Public
10. \*Sections 50 and 51 of the Criminal Code (Sedition law which has been nullified by the court)

## 5. RESTRICTIONS ON THE CIVIC SPACE IN NIGERIA

### 5.1. Attacks on rights to Freedom of Expression and Media Freedom

There have been attacks on the rights to freedom of expression and media freedom in Nigeria. These attacks have taken the form of verbal and physical assault, as well as indiscriminate arrest and detention of journalists and media practitioners by state actors. These violations have been mostly carried out by Nigeria's security agents - the Nigeria Police, officials of the Department of State Service (DSS) and the Nigerian Army. These attacks were perpetrated when journalists and media practitioners sought access to information, shared information or expressed critical opinions or views that could influence public opinion.

Dissenting opinions expressed by media practitioners were sometimes criminalized, particularly when they revolved around sensitive issues. Also, the stifling of freedom of expression occurred in circumstances where journalists are pressured to disclose their sources of information.

Between January and September 2019, Amnesty International reported that at least 19 journalists and media practitioners suffered attacks, including arrests, detention, assaults, threats, and seizure of equipment.<sup>1</sup>

ARTICLE 19, reported, in a briefing in November 2020, a significant increase in assaults, arrests and prosecution of the media in Nigeria compared to 2019, with 51 incidents in 2020 alone.<sup>2</sup>

According to the report, the attacks more than doubled in 2020. The key findings of the 51 crimes against 60 journalists it documented from January to October 2020:

“Three journalists have been killed: one by security forces during a protest in Abuja and two by unknown persons in Adamawa and Nasarawa states.

34 journalists have been victims of assaults, including two female journalists. The assaults took place across the country, including in Lagos, Ondo, Osun, Abia, Anambra, Bauchi, Edo and Rivers states and in the Federal Capital Territory (FCT).

18 of these were assaulted for covering the nationwide #ENDSARS protests against police brutality in October 2020. In ten of these cases, a member of the national police force was the perpetrator.

12 journalists have been arrested. Half of them were released after a few days, but six were charged in court, mostly under the Terrorism or Cybercrime act.

Three journalists were denied access to perform their work.

Three media outlets have been attacked.

Four media outlets were fined for their coverage."

ARTICLE 19 reported that security agents and government officials were behind the vast majority of these incidents, while fourteen attacks were by non-state actors who were referred to as unknown 'gunmen' and political thugs.

ARTICLE 19 in its report in 2020 showed there was an increase in the arrests of bloggers and journalists under suspicion of 'cyber stalking'. The government abused this section of the Cybercrime act to "silence" opposition views in the online media. In addition, ARTICLE 19 said it received reports that countless other journalists have faced equipment seizure or damages, intimidation and death threats.

"This trend more than doubled in 2020; compared to the same period in 2019, at least 19 journalists and media professionals suffered attacks, including arrests, detention, assaults, threats, and seizure of equipment." ARTICLE 19 stated in its report. Some of the 2020 cases it highlighted included:

" On October 26, 2020, the National Broadcasting Commission fined three television stations, namely Channels Television, Arise Television and Africa Independent Television, each N3 million for "unprofessional coverage" of the end SARS protests.

On Sunday October 11, 2020, a journalist working for Premium Times was assaulted by police officers while covering the #EndSARS protest in Abuja. The journalist was chased and beaten by Police officers.

- On October 1, 2020 in Lagos State, a police officer hit a photojournalist working for PUNCH Newspaper on his head with a baton. A colleague of the journalist who witnessed the attack said that the journalist collapsed and blood gushed out of his injured head. The Commissioner of Police in Lagos apologized for the attack and promised to hold the perpetrators accountable.
- On September 10, 2020 the police in Lagos arrested four journalists alongside 14 protesters, during a peaceful protest. They were later released.
- On August 3, 2020 at least four police officers slapped, kicked, and used their batons to beat a correspondent of the privately-owned Daily Post newspaper. The journalist was reporting on the officers' enforcement of COVID-19 restrictions in Old Garage, a suburb of the western Osun State's capital Oshogbo.
- On January 21, 2020 a reporter and editor with the local independent outlet Regent Africa Times Alex Ogbu died from head injuries sustained at a protest in Abuja, the capital, held by members of the Islamic Movement of Nigeria religious organisation. Witnesses claimed that police opened fire at protesters and a bullet hit Ogbu in the head."

ARTICLE 19 gave additional incidence reports on the arrests and prosecution of journalists in its 2020 report:

"In 2020 many bloggers and journalists have been arrested under suspicion of 'cyberstalking'. The government has abused this section of the act to 'silence' opposition views in the online media. For example:

- On May 28, 2020, the Manager of the New Media Centre was arrested after sharing a Facebook post allegedly defaming Imo State Governor. He was charged under the Cybercrime and Terrorism Acts and released on bail of N500,000 [almost 1300 USD] on June 22, 2020.
- On May 22, 2020, the Nigeria police filed a complaint in a Federal High Court in Abuja against a freelance journalist for sending a WhatsApp audio message "causing annoyance, insult, hatred and ill will" towards Nigeria's Minister of Information and Culture, in violation of Section 24(1)(b) of the Cybercrime Act 2015.
- On August 18, 2020, a local magistrate court charged a journalist with cyber stalking under the Cybercrime Act for sending a message that included the title of a news article alleging the spouse of Akwa-Ibom state governor was linked to a blackmail scandal.

- On June 5, 2020, the founder of the privately-owned Naija Live TV news website, in Yenagoa, Bayelsa state, was charged under the country's Cybercrime Act for his reporting on the COVID-19 pandemic. He was previously arrested by the Department of State Security (DSS) and released on bail.”

Reporters Without Borders (RSF), an organisation that conducts advocacy for freedom of information and press freedom, ranked Nigeria 120 out of 180 in its 2019 Data of Press Freedom ranking. The report also rated Nigeria as ‘difficult’ for press freedom and net freedom.<sup>3</sup>

It is no surprise therefore that in its 2020 annual World Press Freedom Index, RSF ranked Nigeria 115 out of 180 countries, in which one is considered the freest.

It has also become evident that the authorities not only failed to protect journalists from attacks, but are increasingly trying to silence the media, thereby shrinking the civic space.<sup>4</sup>

### **Arrest and Judicial Decisions for ‘Blasphemy’**

There were also reports about arrests and judicial decisions for ‘blasphemy’ in the period under review. However, laws or actions which seek to prevent discussion and debate on religion, such as laws on blasphemy, religious insult and defamation of religion, are fundamentally incompatible with international human rights laws and standards. They violate several legally binding provisions on freedom of opinion and expression, freedom of thought, conscience and religion, equality, and freedom from discrimination.

According to reports, in August 2020, a singer Sharif was sentenced to death for blasphemy by a Sharia Court in Kano State. He was accused of blasphemy against the Prophet Muhammad in a song he distributed through WhatsApp in March 2020.<sup>5</sup>

In another case, in April, 2020, the President of the Nigerian Humanist Association was arrested in Kaduna for insulting the Prophet Muhammad on his Facebook page a day earlier. He was reportedly detained incommunicado in Kano State. He risks a death sentence like Sharif.<sup>6</sup>

These actions led Civil Society leaders to raise alarm. Okechukwu Nwaguma, the Executive Director of Rule of Law and Accountability Advocacy Centre (RULAAC) said:

“It is shocking that posting a song on WhatsApp is punished with death, even if it is considered insulting. Nigerian authorities should protect opinions online and offline in consonance with its international human rights obligations. (A) Death sentence cannot be accomplished without violating the right to life guaranteed to all Nigerians,” he said.

Chido Onuma, the chairman of The African Centre for Media and Information Literacy (AFRICMIL) also in enjoining the authorities then declared, “We urge the Nigerian authorities to release all people who are currently detained across the country solely for expressing their opinions. In addition, Nigeria should ensure its laws enable a climate of free speech.”<sup>7</sup>

### **5.2 Peaceful Assembly, Freedom of Association and related rights**

The right to peaceful assembly, freedom of association and related rights also came under attack in the period between 2019 and 2021. Most protests against governments at all levels were met with high-handedness by the police and other security agents. The proscription of the Indigenous People of Biafra and subsequently the Islamic Movement of Nigeria as terrorist organizations are a pointer to this reality and it clearly shows the government’s intolerance towards organised dissent and its disposition to abuse legal processes to achieve these aims.<sup>8</sup> The Bring-Back-Our Girls movement which has played a commendable role in advocating for the release of children kidnapped by the Boko Haram terrorist group also faced attacks by the government. Since 2019, agents from government dispersed their gatherings thus hampering their right to peaceful assembly.

### **5.3 Targeted intimidation of critics and protesters through arbitrary arrest and prosecutions**

“Protest is a right. The Nigerian Constitution clearly recognises the rights to freedom of expression and assembly. Nigerian security forces cannot simply arrest anyone who expresses an opinion critical of the government. Yet... we have witnessed mass arrests of protesters,” said Fatou Senghore, Director of ARTICLE19 Senegal and West Africa.<sup>8</sup>

Protests against the government regardless of being peaceful, have been met with high-handedness in Nigeria. For instance, in August, 2019, according to reports by Premium Times, an online newspaper, dozens of people were arrested in Abuja, Lagos, Abeokuta, Kano, Calabar and Osogbo during the #RevolutionNow protests calling for good governance. The police used teargas to disperse the largely peaceful protests. Most people were released the following day, without charge. Despite their

release, the Nigerian authorities did not shed light on the excessive use of force against the protesters and the allegations of degrading treatments to which some demonstrators were allegedly subjected to.<sup>9</sup>

In addition, an activist named Usman Zush remained in detention for about seven days without being arraigned for any offence. The police accused him of impersonation based on the allegation that he was found with two identity cards. But a local lawyer who was engaged in the case anonymously told the SERAP researcher that Usman was solely arrested in connection with the Revolution Now protest and the impersonation charge was a cover-up.

Protesters were also arrested in the Southern Kaduna state during protests against increased insecurity in the state in August 2020.

The crackdown on the #EndSARS protesters during and after the protests is a sad pointer to how Nigeria's civic space has shrunk.

#### **5.4 Pressure on Media Institutions into Self-Censorships**

Human Rights Watch in a report tagged 'Nigeria's Wavering Commitment to Freedom of Expression' by Aniete Ewang<sup>10</sup> reported that the Nigerian Broadcasting Commission (NBC) suspended the broadcast licenses of two subsidiaries of Daar Communications, the African Independent Television (AIT) and Raypower Radio station, only giving broad and vague reasons. The NBC had claimed it acted according to its powers under the NBC Act, and sanctioned the stations for airing "inflammatory, divisive, inciting broadcasts, and media propaganda against the government." AIT was cited for broadcasting "uncensored and unedited social media content." Although AIT and Ray Power resumed broadcasting after an order by an Abuja Federal High Court which overturned the suspension.

In October 2020, the NBC fined three stations, that is, AIT, CHANNELS and ARISE television stations 3 million Naira for what it termed "unprofessional coverage" of the EndSARS protest.

In January 2021, the NBC warned television and radio stations against broadcasting contents related to the quit notice given to Fulani herders in the South-West zone of the country. The warning came after Sunday Igboho, a Yoruba rights activist issued a quit notice to herders and after the Ondo State Government asked herders to vacate all forests in the state.<sup>11</sup>

According to the NBC, its warning was based on the need for stations to maintain professionalism. But these incidents of suspensions, fines and warnings are only pointers to a series of efforts by Nigerian authorities to force the media into self-censorship which is a way of shrinking the civic space.

### **5.5 Use of Legislations to Harass Civil Society Organisations and Activists**

There has been a wave of harassments on CSOs and activists by way of legislations and several bills that aimed to curtail the rights to free speech, association, religious and assembly rights, including internet freedom. Some of them include the Non-Governmental Organization Regulatory Commission of Nigeria (Establishment) Bill, 2016 (NGO Bill), Protection from Internet Falsehood and Manipulation Bill 2019 (Social Media Bill) and National Commission for the Prohibition of Hate Speeches Bill 2019 (Hate Speech Bill)—all of which created anger and discontent across Nigeria.<sup>12</sup>

The Department of State Security (DSS) and the Independent National Electoral Commission (INEC) at the disinformation and misinformation Seminar organised by Centre for Democracy and Development (CDD), in Abuja in August, 2019 canvassed for new legislations to curtail the spread of what they termed ‘fake news’ and ensure peaceful coexistence in the country.<sup>13</sup>

The calls for new legislations are suspicious because there are existing laws on cyber security and the penal codes, which if well implemented, can cater for fake news in the country.

The main targets of the flurry for new legislations may well be civil society players and organisations and this will further shrink the civic space.

### **5.6 Restricted and state-sponsored impediments to access to justice**

Access to justice is imperative for the protection of human rights in Nigeria.<sup>14</sup> It is necessity for the protection of democratic freedoms which serve as the basis for an open civic space. However, the reality of the Nigerian situation is that there are a number of obstacles to the realization of access to justice in the country.

These obstacles are undue delay in the administration of justice, reliance on technical rules, and high cost of litigation, locus standi, as well as ignorance.

Until there is improved access to justice in Nigeria, the civic space will continue to shrink. However, there are prospects for improvement of access to justice in Nigeria

and several mechanisms such as judicial reforms and a resort to alternative dispute resolution mechanisms which can remedy the situation with less emphasis on technical rules. There is also a need to strengthen the Legal Aid Scheme, so that journalists, activists and civil society can have meaningful access to justice which will impact positively on the quest for the protection of human rights in the country.

### **5.7 Efforts to Shrink the Civic Space by Non-state actors**

While it is true that state actors are the major violators of the civic space in Nigeria, we note that non-state actors have also joined the fray. Boko Haram, quasi-religious groups, 'unknown gunmen', thugs/hoodlums and some powerful individuals have tried to shrink the civic space in their sphere of influence in Nigeria.

Boko Haram has severally threatened activists and civil society actors especially in the North East where it carries out its nefarious activities. Many are afraid to speak out for fear of Boko Haram.

Audu Bulama Burkati, a newspaper columnist and security analyst has been threatened by the group as a result of views he has expressed.

Benjamin Ekom, former treasurer of NUJ Nasarawa was murdered by unknown gunmen at his residence in Washo village in Nasarawa.<sup>15</sup>

Maxwell Nashan of Federal Radio Corporation of Nigeria (FRCN) was physically assaulted by suspected political thugs at Yola Adamawa State in January 2020.

Femi Fani Kayode verbally assaulted and threatened Eyo Charles of Daily Trust Newspaper in August 2020 at a press briefing in Calabar, Cross River State.<sup>15</sup>

## 6. CONCLUSION

As the report shows, Nigeria's civic space has significantly shrunk in the last two years. State actors at federal, state and local government levels have carried out violations that have led to the shrinking of the civic space.

By taking actions that violate democratic freedoms, state actors have been culpable for the many infractions on the civic space in Nigeria. A number of state actors such as Boko Haram (and other quasi-religious groups), political thugs, 'Unknown' Gunmen, and some powerful individuals are also guilty of taking steps that violate freedoms thus leading to the shrinking of the civic space in Nigeria.

State actors as government entities have legally binding obligations to ensure and promote an open civic space in recognition that Nigeria is a democracy and a rule of law-based society. So it is imperative that the government should promote freedom of thought, freedom of expression, freedom of association and freedom of assembly in the country.

## 7. RECOMMENDATIONS

### To the President of Nigeria

- Publicly condemn all attacks on journalists and media organizations; and issue a clear, public statement to all government and security force officials prohibiting any acts of intimidation, threats, harassment, and arbitrary arrests of journalists and media workers, and state that such incidents will be immediately investigated and appropriately disciplined or prosecuted;
- Publicly condemn all harassment, intimidation, and attacks on journalists, bloggers and media organizations by state governors;
- Publicly support the right to freedom of expression and the media, including public reporting of sensitive political matters and other issues;
- Push for the immediate amendment of the Cybercrimes Act and other legislation to bring them in line with the Nigerian Constitution of 1999 (as amended) and international human rights obligations under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, among others, to which Nigeria is a state party;
- Ensure that security agencies and the Nigeria Police Force fully respect the rights to freedom of expression and association, and the rights of journalists and media workers;
- Ensure that security agencies and the Nigeria Police Force and other authorities drop all charges against journalists, bloggers and other media workers, and cease further arbitrary closures of radio stations and television stations without a court order;
- Ensure that the Nigeria Police Force and National Human Rights Commission promptly and impartially investigate credible allegations of threats or violence against journalists and media outlets;
- Ensure that anyone found to be complicit in abuses against journalists or fails to adequately investigate alleged threats or violence against journalists is brought to justice without further delay and ensure adequate compensation and reparation for victims including restitution, satisfaction, and guarantee of non-repetition;
- Ensure that security forces engaged in law enforcement activities are appropriately trained on issues regarding media freedoms.

**To Nigeria's National Assembly**

- Promptly and comprehensively review the Cybercrimes Act and other restrictive legislation, and revise them as necessary to bring them in line with Nigeria's international obligations regarding the right to freedom of expression and the media; ensure that any restrictions on media freedom in the law are necessary, proportionate and least restrictive;
- Drop any initiative to revisit the repressive NGO bill, which is entirely inconsistent with the free exercise of people's rights to freedom of expression and association;
- Pass a resolution condemning all harassment, intimidation, and attacks on journalists, bloggers and media organizations by state governors and the federal government.

**To the Minister of Justice**

- Push for the immediate amendment of the Cybercrimes Act and other legislation and bring them in line with the Nigerian Constitution of 1999 (as amended) and international human rights obligations under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights among others, to which Nigeria is a state party.

**To the Minister of Information**

- Promptly review restrictive and oppressive media legislation in Nigeria and seek immediate revision of any provisions that violate the right to freedom of expression and media freedom, and ensure that any restrictions on media freedom are necessary, proportionate and least restrictive;
- Ensure that the regulatory mechanisms including the National Broadcasting Commission are independent and promote self-regulation of the media;
- Seek government funding and donor support for a public education campaign on the importance of freedom of expression and media freedom, including the role of the media.

**To the 36 State Governors**

- Ensure that security agencies and the Nigeria Police Force and other authorities drop all charges against journalists, bloggers and other media workers, and cease further arbitrary closures of radio and television stations;
- Publicly support the right to freedom of expression and the media, including public reporting of sensitive political matters and other issues within your states;

- Ensure that any government or security officials found responsible for obstructing, abusing, or attacking journalists or media organizations are appropriately disciplined or prosecuted;
- Ensure the direct application of Freedom of Information Act within your states;
- Ensure adequate compensation and reparation for victims including restitution, satisfaction, and guarantee of non-repetition.

### **To the National Human Rights Commission**

- Publicly condemn all attacks on journalists and media organizations. Issue a clear, public statement to all government and security force officials prohibiting any acts of intimidation, threats, harassment, and arbitrary arrests of journalists and media workers, and state that such incidents will be immediately investigated and appropriately disciplined or prosecuted;
- Publicly condemn all harassment, intimidation, and attacks on journalists, bloggers and media organizations by state governors;
- Publicly support the right to freedom of expression and the media, including public reporting of sensitive political matters and other issues;
- Push for the immediate amendment of the Cybercrimes Act and other legislations and bring them in line with the Nigerian Constitution of 1999 (as amended) and international human rights obligations under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights among others, to which Nigeria is a state party;
- Hold security agencies and the Nigeria Police Force and other authorities to account for arbitrary closures of radio and television stations without a court order;
- Investigate credible allegations of threats or violence against journalists and media outlets;
- Ensure that anyone found to be complicit in abuses against journalists or fails to adequately investigate alleged threats or violence against journalists is brought to justice without further delay and ensure adequate compensation and reparation for victims including restitution, satisfaction, and guarantee of non-repetition;
- Ensure that security forces engaged in law enforcement activities are appropriately trained on issues regarding media freedoms;
- Regularly and closely monitor complaints of attacks on journalists, bloggers and other media workers and organizations, and effectively act on any such complaints;

- Actively press the security agents and Nigeria Police Force to cease further attacks on freedom of expression and media freedom.

### **To UN, African Union and African Commission on Human and Peoples' Rights**

- Publicly express concerns regarding violations of the right to freedom of expression and media freedom in Nigeria and urge the Federal and State governments in Nigeria to publicly call on all security agents and Nigeria Police Force not to harass or threaten journalists and other media workers;
- Publicly press the Nigerian authorities to reform laws and regulatory institutions to bring them into compliance with Nigeria's international human rights obligations; and provide technical support and assistance to these efforts;
- Request to visit Nigeria to carry out a fact-finding mission and investigate allegations of violations of freedom of expression and media freedom by the Federal and State governments;
- Regularly and publicly report on the situation of human rights including freedom of expression and media freedom in Nigeria.

### **To the Nigerian Guild of Editors and Nigerian Union of Journalists**

- Work closely with NGOs and other stakeholders to carry out systematic monitoring and reporting of freedom of expression abuses throughout the country;
- Publicly condemn attacks on freedom of expression and media freedom by state governors and the federal government;
- Push for support to journalists throughout the country including those requiring legal, medical and psychological assistance;
- Push for the Nigerian authorities, at all levels, to carry out effective, thorough and transparent investigations into abuses against journalists and media workers, and for adequate compensation and reparation for victims, including restitution, satisfaction and guarantee of non-repetition

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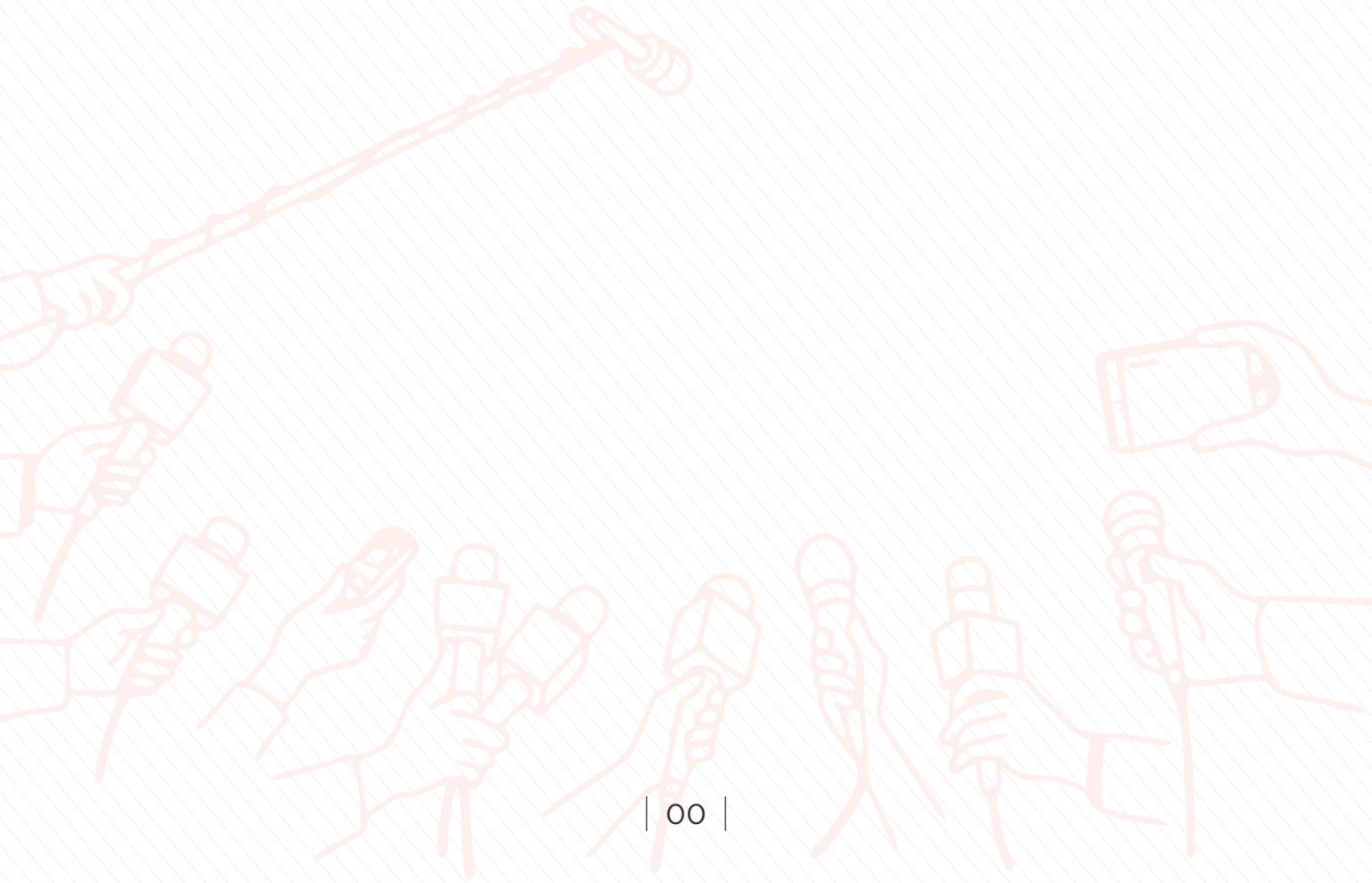
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## ABOUT SERAP

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**SERAP** is a non-profit, nonpartisan, legal and advocacy organization devoted to promoting transparency, accountability and respect for socio-economic rights in Nigeria. SERAP received the Wole Soyinka Anti-Corruption Defender Award in 2014, and was nominated for the UN Civil Society Award and Ford Foundation's Jubilee Transparency Award. SERAP serves as one of two Sub-Saharan African civil society representatives on the governing Committee of the UNCAC Coalition, a global anti-corruption network of over 380 civil society organizations (CSOs) in over 100 countries.