African Commission Declares Niran Malaolu's Trial Unjust


The Commission, based in Banjul, The Gambia, said although it sympathized with the Government of President Olusegun Obasanjo over the "awkward situation" of its having to take responsibility for the violations, this did not in any way diminish the Government's obligations under the African Charter for the violations committed prior to its coming into office.

It dismissed as untenable President Obasanjo Government's defence that the trial was conducted under a law validly enacted by the competent authority at that time, saying the Government failed to show that the law was in conformity with the provisions of the African Charter.

The pronouncements were contained in the Commission's verdict reached at its 28th Ordinary session in a complaint filed against the Nigerian Government by Media Rights Agenda (MRA) over the arrest, detention, trial and conviction of Malaolu, then Editor of The Diet newspaper, in 1998.

In the "communication" lodged with the Commission on May 25, 1998, MRA complained about Malaolu's arrest at The Diet office in Lagos on December 28, 1997, his detention and subsequent arraignment, along with some military officers and civilians, before the special military tribunal constituted under the Treason and Other Offences (Special Military Tribunal) Decree No. 1 of 1986 on charges of treason.

It requested the Commission to hold, in accordance with the principles previously established by it in several earlier cases, that the Nigerian Government had violated Articles 3, 4, 5, 6, 7 9 and 26 of the African Charter.
At its 25th ordinary session held in Bujumbura, Burundi, the Commission requested its Secretariat to notify the Nigerian Government of the complaint. After a preliminary consideration of the complaint, the Commission declared it admissible at its 26th ordinary session held in Kigali, Rwanda, and requested parties to submit written arguments on the merit of the case.

In its defence filed before the Commission on September 22, last year, the Government of President Obasanjo contended that Malaolu's trial was conducted under a law which was validly enacted by the competent authority at that time, arguing that he was tried along with a number of people accused of involvement in an alleged plot to overthrow General Abacha as Head of State.

It claimed that the trial was not a case of victimisation against Malaolu or his profession and alleged that "one or two other journalists" were also sentenced to imprisonment at the same trial.

The Government contended that the whole episode took place during a prolonged military regime, arguing that it is well known all over the world that military regimes are abnormal and a painful aberration. It stressed that there was no way of controlling the wanton acts of abuse of fundamental rights by a military junta determined to stay in power at all costs.

On MRA's complaint that the trial was not fair, the Government argued that the right to fair hearing in public was subject to a proviso that the court or tribunal may exclude from the proceedings persons other than the parties in the case in the interest of defence, public safety, public order, etc.

The Government claimed further that although Malaolu was arrested, detained, tried and convicted under an existing legislation made by a "legitimate" military administration, which was imposed on the people of Nigeria, the regime of General Abdulsalami Abubakar, had granted Malaolu a pardon. It noted that Malaolu could institute an action in the ordinary courts on violation of his rights and petition the Commission of Inquiry into Human Rights Violations.

The Government also observed that the law under which Malaolu was tried had been repealed.

Ruling on the complaint at its 25th ordinary session held in Bujumbura, the Commission requested the Secretariat to give an opinion on the effect of article 56(7) of the African Charter in view of the prevailing political situation in Nigeria, with a democratically elected government in power.

Relying on previous decisions by the Commission, the Secretariat submitted that based on the well established principle of international law, a new government inherits the previous government's international obligations, including responsibility for the previous government's misdeeds (It referred to Krshua Achutan and Amnesty International/Malawi, communications 62/92, 68/92 and 78/92).

The Commission held that even if the human rights situation in Nigeria has improved, such that detainees have been released, offensive laws are being repealed and impunity are being tackled, the position remained that the government of Nigeria still has responsibility for acts of human rights violations which were perpetrated by its predecessors.

The Commission also noted that although Nigeria is now under a democratically elected government, the new constitution provides in Section 6(6)(d) that no legal action can be brought to challenge 'any existing law made on or after 15 January, 1966 for determining any issue or question as to the competence of any authority or person to make any such law'.

For these reasons, and based on the allegation that there were no avenues for exhausting local remedies, the Commission declared the complaint admissible.

In its decision, the Commission upheld MRA's contention that Malaolu's arrest, detention, trial and conviction violated several provisions of the African Charter.

MRA had complained that the arrest and subsequent detention of Malaolu were arbitrary as he was neither shown any warrant of arrest nor informed of the offences for which he was arrested. It also complained that Malaolu was arrested by armed soldiers from the Directorate of
Military Intelligence at his office on December 28, 1997 and detained incommunicado at a military facility in Lagos until he was moved to Jos, where his trial took place, contending that these acts contravened Article 6 of the African Charter.

The organization complained that until he was arraigned before a Special Military Tribunal two months after his arrest for his alleged involvement in a coup plot, Malaolu was neither informed of the reasons for his arrest nor of any charges against him.

Deciding these issues, the Commission recalled its Resolution on the Right to Recourse Procedure and Fair Trial, where, in expounding on the guarantees of the right to fair trial under the African Charter, it observed that "...the right to fair trial includes, among other things, the following ...Persons who are arrested shall be informed at the time of arrest, in a language which they understand of the reason for their arrest and shall be informed promptly of any charges against them.'

The Commission held that the "failure and/or negligence of the security agents who arrested the convicted person to comply with these requirements is, therefore, a violation of the right to fair trial as guaranteed under Article 7 of the Charter."

MRA had also complained that the decision of the Tribunal which tried and convicted Malaolu was not subject to appeal, but confirmation by the Provisional Ruling Council (PRC), a body which was neither independent nor impartial. It said it violates Article 7(1)(a) of the African Charter.

MRA noted that prior to the setting up of the tribunal, the Government organised intense pre-trial publicity to persuade members of the public that a coup plot had been uncovered and that those arrested in connection with it were guilty of treason. The organization, therefore, contended that such trial which excludes members of the public and the press by the tribunal could not be justified, and was therefore in breach of the right to fair trial, particularly, the right to presumption of innocence.

The Commission noted that Government did not contest the veracity of MRA’s averment, saying that in the circumstance, the Commission is obliged to accept the allegations as the facts of the case. It, therefore, found the Nigerian Government in violation of Article 7(1)(b) of the African Charter.

It conceded that neither the African Charter nor the Commission's Resolution on the Right to Recourse Procedure and Fair Trial contain any express provision for the right to a public trial. That notwithstanding, it said, the Commission is empowered by Articles 60 and 61 of the African Charter to draw inspiration from international law on human and peoples' rights and to take into consideration as subsidiary measures other general or special international conventions, customs generally accepted as law, general principles of law recognised by African States as well as legal precedents and doctrine.

Invoking these provisions, the Commission adopted General Comment 13 of the United Nations Human Rights Committee on the right to fair trial, Paragraph 6 of which states that "The publicity of hearings is an important safeguard in the interest of the individual and of society at large. At the same time Article 14, paragraph 1, acknowledges that courts have the power to exclude all or part of the public for reasons spelt out in that paragraph. It should be noted that, apart from such exceptional circumstance, the Committee considers that a hearing must be open to the public in general, including members of the press, and must not, for instance, be limited only to a particular category of persons..."

The Commission noted that the exceptional circumstances under the International Covenant on Civil and Political Rights (ICCPR), which the UN Human Rights Committee monitors outlined, are for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interests of justice so demand.

It stressed that these circumstances are exhaustive, as indicated by the use of the phrase "apart from such exceptional circumstances". It further observing that "the Government has only presented an omnibus statement in its defence to the effect that the right to fair hearing in public
was subject to the proviso that the court or tribunal might exclude from the proceedings persons other than the parties thereto in the interest of defence, public safety, public order, etc."

The Commission remarked that the Government did not specifically indicate which of these circumstances prompted it to exclude the public from Malaolu's trial and therefore ruled that the arguments were not sufficient enough to avail the Government of such defence.

The Commission said: "Considering the fact that, as alleged by the complainant, prior to the setting up of the tribunal, the Government had organised intense pre-trial publicity to persuade members of the public of the occurrence of a coup and the involvement of those arrested in connection to it, the Commission is constrained to find the exclusion of the same public in the actual trial unjustified and in violation of the victim's right to fair trial guaranteed under Article 7 of the Charter."

MRA had also complained that prior to his arraignment, precisely, for the 49 days he was detained, Malaolu was not allowed access to his lawyer, neither was he given the opportunity to be represented and defended by a lawyer of his choice at the trial. Rather, MRA said, he was assigned a military lawyer by the Tribunal. MRA therefore submitted that by refusing Malaolu access to his lawyer, the Nigerian Government contravened Article 7(1) (c) of the African Charter.

The Commission noted that in its Resolution on the Right to Recourse and Fair Trial, it had observed that "In the determination of charges against individuals, the individual shall be entitled in particular to …communicate in confidence with counsel of their choice."

The Commission, therefore, ruled that the denial of this right to Malaolu was a violation of these basic guarantees.

MRA had complained that the Special Military Tribunal which tried Malaolu was neither competent, independent nor impartial because members of the Tribunal were selected by General Abacha, and the PRC, against whom the alleged offence was committed. Some members of the Tribunal were also serving army officers and that the President of the Tribunal, Major-General Victor Malu, was also a member of the PRC, which is empowered by Decree No. 1 of 1986, to confirm the sentences passed by the Tribunal. It argued that this was a breach of the right to a fair trial as stipulated in Article 7(1) (d) of the African Charter.

The Commission observed that the Government did not refute this specific claim, but only stated that the Treason and Other Offences (Special Military Tribunal) Act, under which Malaolu was tried, arose from the ashes of Decree No. 1 of 1986 enacted by the then Military Government headed by General Ibrahim Babangida.

The Commission said it was not interested in the history and origin of the laws and why they were promulgated, but what was of concern to it was whether the trial was in conformity with fair hearing standards under the African Charter.

The Commission held that the selection of serving military officers, with little or no knowledge of law, as members of the Tribunal contravened Principle 10 of the Basic Principles on the Independence of Judges.

In the same vein, the Commission ruled that it considered the arraignment, trial and conviction of Malaolu, a civilian, by a Special Military Tribunal, presided over by serving military officers, who are still subject to military commands prejudicial to the basic principles of fair hearing guaranteed by Article 7 of the African Charter.

The Commission stated its general position on the trials of civilians by Military Tribunals.

It recalled that in its Resolution on the Right to Fair Trial and Legal Assistance in Africa, it had, while adopting the Dakar Declaration and Recommendations, noted that "In many Africa countries, Military Courts and Special Tribunals exist alongside regular judicial institutions. The purpose of Military Courts is to determine offences of a pure military nature committed by military personnel. While exercising this function, Military Courts are required to respect fair trial standards. They should not in any circumstances whatsoever have jurisdiction over
civilians. Similarly, Special Tribunals should not try offences which fall within the jurisdiction of regular courts”.

Also for this reason, the Commission said it considered Malaolu's trial a contravention of the right to fair trial guaranteed under Article 7 of the African Charter.

It also held that the setting up of the tribunal for the trial of treason and other related offences is an infringement on the independence of the judiciary, since such offences are recognised in Nigeria as falling within the Jurisdiction of the regular courts.

The Commission ruled that the trial contravened the basic principle of fair hearing contained in Principle 5 of the UN Basic Principles on the Independence of the Judiciary (The UN Basic Principles) and Article 7 (1) (d) of the African Charter. Principle 5 of the UN Basic Principles stipulates that: "Everyone shall have the right to be tried by the ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals."

It also cited Article 14 of the ICCPR by the UN Human Rights Committee, which said: "The provisions of article 14 apply to all courts and tribunals within the scope of that article whether ordinary or specialised. The Committee notes the existence, in many countries, of military or special courts which try civilians. This could present serious problems as far as the equitable, impartial and independent administration of justice is concerned...While the Covenant does not prohibit such categories of courts, nevertheless the conditions which it lays down clearly indicate that trying of civilians by such courts should be very exceptional and take place under conditions which genuinely afford the full guarantees stipulated in Article 14."

In the Commission's view, it could not be said that the trial and conviction of Malaolu by a Special Military tribunal presided over by a serving military officer, who is also a member of the PRC, a body empowered to confirm the sentence, took place under conditions which genuinely afforded the full guarantees of fair hearing as provided for in Article 7 of the African Charter.

On MRA's allegation that Malaolu was being punished by Nigeria's Military Government over news stories published by his newspaper relating to an alleged coup plot involving Nigeria's then Second-in-Command, Lt. General Oladipo Diya, and other military officers and civilians, the Commission noted the Government's argument that Malaolu was tried along with a number of people accused of involvement in alleged plot to overthrow General Abacha and that the trial was not a case of victimisation against Malaolu or his profession as one or two other journalists were also sentenced to imprisonment at the same trial, was untrue.

It said considering the facts at its disposal and the response of the Government, it was of the view that it was only Malaolu's publication which led to his arrest, trial and conviction. It therefore ruled that for this reason, his arrest, trial and conviction violated of Article 9 of the African Charter as alleged.

MRA had also averred that while Malaolu was in detention, he was subjected to such cruel, inhuman or degrading treatment, as having his legs and hands chained to the floor day and night. And that from the day he was arrested and detained, until the day he was sentenced by the tribunal, a total period of 147 days, he was not allowed to take his bath, he was given food twice a day. While in detention, both in Lagos and Jos before he faced the Special Investigation Panel that preceded the trial at the Special Military Tribunal, he was kept in solitary confinement in a cell meant for criminals.

The Commission noted that Principle 1 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that: "All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person".

It also cited Principle 6, which states that: "No persons under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or
punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment."

The Commission explained that the term 'cruel, inhuman or degrading treatment or punishment' is to be interpreted so as to extend to the widest possible protection against abuses, whether physical or mental.

It observed that the Government did not deny MRA's allegation, especially since the Government had stated clearly that it is not contesting the merits or demerits of the case.

The Commission said that in the absence of any information to the contrary from the Government, it was of the view that the various forms of treatments meted to Malaolu while in detention, violated his right to respect and dignity and right to freedom from inhuman or degrading treatment guaranteed under Article 5 of the African Charter and reinforced by the UN Basic Principles.

Although the Commission said it was not an issue, it, however, noted that the violations took place during a prolonged military rule and that such regimes, as pointed out by the Government, are abnormal, especially in the light of the Commission's Resolution on the Military, adopted at the 16th ordinary session in Banjul, The Gambia.

The Commission said it sympathised with the present Nigerian Government over this awkward situation but insisted that this did not in any way diminish the Government's obligations under the Charter, nor the violations committed prior to its coming into office.

The Commission said it found it necessary to clarify the position regarding the Government's claim that the trial was conducted under a law validly enacted by the competent authority at the time and that Malaolu was charged, tried, convicted and sentenced in accordance with the provisions of that law.

It recalled its decision in communication 147/95 and 149/96, Sir Dawda Jawara/The Gambia, where it stated that "For a state to avail itself of this plea, it must show that such a law is consistent with its obligations under the Charter".

Saying that it was not enough for a state to plead the existence of a law and that it had to go further to show that such a law falls within the permissible restrictions under the Charter and, therefore, in conformity with its Charter obligation, the Commission noted that no such reasons have been adduced in this case. It, therefore, rejected the Government's argument.

The Commission ruled that the Nigerian Government had violated Articles 3(2), 5, 6, 7(1)(a), (b), (c), (d) of the African Charter and Principle 5 of the UN Basic Principles on the Independence of the Judiciary.

It urged the Nigerian Government to bring its laws in conformity with the provisions of the African Charter.

**Court Dismisses MRA's Suit Over Public Officers Assets Declarations**

A Federal High Court in Lagos has ruled that Nigerians cannot inspect the assets declarations made by public officers until the National Assembly prescribes the conditions for its exercise.

The court ruled that the prescription of terms and conditions by the National Assembly is a pre-condition to the exercise of unimpeded right of access to inspect the declaration forms submitted to the Code of Conduct Bureau by public officers, adding that members of the public have no right to ensure that public officers comply with the Code of Conduct for Public Officers because that right is reserved for the Bureau by the provisions of Paragraph 3(d) in Part 1 of the Third Schedule to the 1999 Constitution.

Justice Gbolahan Jinadu made the interpretation in striking out a suit instituted by Media Rights Agenda (MRA) seeking to compel the Code of Conduct Bureau to release to it copies of the declaration of assets made by 40 public officers, including President Olusegun Obasanjo.
In the suit, MRA contended that the true interpretation and effect of Section 3[c] of Part 1 of the Third Schedule to the 1999 Constitution is that every Nigerian citizen has an uninhibited right of access to assets declarations made by public officers and that the refusal of the Code of Conduct Bureau to allow it access to the assets declarations made by 40 named public officers was unconstitutional.

Besides President Obasanjo, other public officers included in MRA's request were the Vice President, Alhaji Atiku Abubakar; then Senate President, Chief Evan Enwerem; the then Speaker of the House of Representatives, Alhaji Salisu Buhari; and the Governors of the 36 states of the Federation.

The Plaintiffs in the suit were the Incorporated Trustees of Media Rights Agenda and Mr. Edetaen Ojo, MRA's Executive Director, while the Code of Conduct Bureau and the Attorney-General of the Federation were named as defendants.

By an Originating Summons filed in August 1999 at the Federal High Court by MRA's Director of Legal Services, Mr. Tunde Fagbohunlu, the organization asked the court to make a judicial determination of the following questions:

♦ Whether every Nigerian citizen has a right to ensure that Nigerian public officers comply with the provisions of the Code of Conduct for Public Officers set out in Part 1 of the Fifth Schedule to the 1999 Constitution;

♦ If the answer is in the affirmative, whether the right of every Nigerian citizen to ensure compliance with the Code of Conduct for Public Officers also confers on every citizen, by necessary implication, a right of access to assets declaration forms submitted to the Code of Conduct Bureau by public officers pursuant to Section 3[a] of Part 1 of the Third Schedule and Section 11[1] of Part 1 of the Fifth Schedule to the 1999 Constitution;

♦ If the answer is yes, whether the true interpretation and effect of Section 3[c] of Part 1 of the Third Schedule to the Constitution is that every Nigerian, prima facie, has an uninhibited right of access to assets declarations made by public officers, which can only be circumscribed if and when the National Assembly imposes lawful conditions for that purpose; and

♦ If the answer to this question is also in the affirmative, whether the Code of Conduct Bureau's refusal to give MRA access to the assets declarations made by the affected public officers, whose names are listed in the Schedule to the Originating Summons, is not unconstitutional.

The Federal Government and the Code of Conduct Bureau filed through their lawyer, Mr. J.J. Ndupu, a preliminary objection in which they asked the court to dismiss the suit on the grounds that MRA had no locus standi to institute the action; the court lacks jurisdiction to adjudicate on the matter; and the conditions precedent for the suit to be competent have not been satisfied by MRA.

Arguing the objection, Mr. Ndupu contended that the fifth schedule to the Constitution creates public rights for the benefit of the public at large, but does not vest a cause of action, interest or right in the individual. He added that the Code of Conduct for Public Officers established under the fifth schedule to the Constitution has not created any private right enforceable in the regular court like the Federal High Court.

He insisted that as a result of this situation, no cause of action can be grounded on an infringement of the Code of Conduct for Public Officers.

Mr. Ndupu observed that since MRA claimed to be working to promote public access to information as a means of ensuring transparency and accountability in government, it was by the case claiming to represent the interest of Nigerian citizens at large and in common.

He argued that this being the case, the plaintiffs in the suit ought to have applied for and obtained an order of the court to sue in a representative capacity. Besides, he said, it is also mandatory for MRA in this case to obtain the authority of Nigerian citizens who are specifically wronged and aggrieved and are, therefore, interested in suing.
Mr. Ndupu contended that MRA had failed irredeemably and irreparably to do this as it did not even make an attempt to prove that it had authority to sue in a representative capacity.

On *locus standi*, he submitted that MRA will only have capacity to bring the suit if and only if the perceived right emanating from the provisions of Section 3(c) of Part 1 to the Third Schedule of the Constitution sought to be interpreted by the court is not a right commonly shared in union with the generality of Nigerian citizens and the public because MRA "will have *locus standi* in this matter only if they have sufficient or special interests in the performance of the duty sought to be enforced or where their interests are adversely affected."

He contended that MRA was not entitled to be heard since it would suffer no fundamental injury or hardship arising from the matter.

Mr. Ndupu submitted that there is a breach of the Code of Conduct for Public Officers, no private citizen like MRA's Executive Director or the Incorporated Trustees of MRA has *locus standi* to seek redress, the Code of Conduct being in the nature of a public right enforceable only by the Attorney-General of the Federation.

He said since the Fifth Schedule to the Constitution established the Code of Conduct Bureau and the Code of Conduct Tribunal specifically, it is the work of the Bureau to investigate complaints of breach of the Code of Conduct for Public Officers or any law related thereto and where necessary, charge such defaulters and offenders to the Code of Conduct Tribunal.

According to him, if the Code of Conduct Tribunal finds such officers guilty, it can impose appropriate punishments as provided for in Section 23 Part 1 of the Fifth Schedule to the Constitution.

Mr. Ndupu submitted that by the express provision of the Fifth Schedule to the Constitution, the Federal High Court is precluded from entertaining the suit, the right created in the constitution being a public right.

Besides, he said, the court is limited or circumscribed to the extent that the Fifth Schedule expressly reserves for the Code of Conduct Bureau and the Code of Conduct Tribunal matters pertaining to the Code of Conduct for Public Officers in particular and the Fifth Schedule as a whole in general.

He, therefore, urged the court to dismiss the suit with substantial costs to the government, saying that the points of law which he has raised in the motion substantially disposed of the matter.

Replying, Mr. Fagbohunlu, MRA's lawyer, asked the court to dismiss all the grounds of objection raised by the government saying the simple point which the government's lawyer missed is the fact that the suit was not instituted to enforce the provisions of the Code of Conduct against any particular public officer and as such, the cases relied upon by Mr. Ndupu have no relevance to the present case.

He contended that MRA was not claiming a relief against any public officer based on an alleged breach of the Code of Conduct, but that as shown by its Originating Summons, all the organization was seeking to enforce was its right of access to the records of the Code of Conduct Bureau.

This right, Mr. Fagbohunlu said, is a right specifically conferred on MRA by the Constitution. He argued that Section 3(c) of Part 1 of the Third Schedule to the Constitution empowers the Code of Conduct Bureau to retain custody of assets declaration made by public officers and "make them available for inspection by any citizen of Nigeria on such terms and conditions as the National Assembly may prescribe ..."

He said: "It is this right of inspection and nothing more that this action has been instituted to enforce... it is for this same reason that all the other cases cited by the Defendants on the issue of *locus standi* are irrelevant to this case".

In his view, none of those cases dealt with a right specifically conferred by the Constitution. As such, it would be absurd to say that the Plaintiffs do not have the *locus standi* to enforce a right of inspection specifically granted them by the Constitution.
On the issue of jurisdiction, Mr. Fagbohunlu said the argument of Mr. Ndupu that the Federal High Court lacks jurisdiction to entertain a suit complaining of the breach of the Code of Conduct, since the Code of Conduct Tribunal is the body vested with jurisdiction to entertain such complaints was again inspired by the misconception that the suit complains of a breach of the Code of Conduct for Public Officers.

He submitted that the purpose of the suit was not to seek redress for a breach of the Code of Conduct by any public officer, but to enforce MRA's right of access to the records of the Code of Conduct Bureau, a right which the organization perceives that it has by virtue of Section 3(c) of Part 1 of the Third Schedule to the Constitution.

Noting that the Code of Conduct Bureau is an agency of the Federal Government, Mr. Fagbohunlu said Section 251(1)(r) of the Constitution confers jurisdiction on the Federal High Court in any action or proceeding for a declaration or injunction affecting the validity of any executive or administrative action or decision by the Federal Government or any of its agencies.

On Mr. Ndupu's argument that MRA did not comply with the pre-conditions of a representative action, Mr. Fagbohunlu submitted that the suit was neither commenced as nor intended to be a representative action.

According to him, it is clear from the facts stated in the Originating Summons that the only persons who have applied to the Code of Conduct Bureau for information and who have been denied such information are the Incorporated Trustees of MRA and its Executive Director, who are the Plaintiffs in the suit. They do not therefore purport to represent the interest of every Nigerian in the suit.

Ruling on the objection, Justice Jinadu said his understanding and interpretation of the provisions of Paragraph 3(a)(c) of Part 1 of the Third Schedule to the Constitution is that every Nigerian citizen has an unimpeded access to inspect the assets declaration forms submitted to the Code of Conduct Bureau subject to the terms and conditions as the National Assembly may prescribe and not as argued by MRA's lawyer that every Nigerian citizen prima facie has unimpeded right of access to the asset declarations, which right can be circumscribed only if and when the National Assembly imposes lawful conditions for that purpose.

According to the judge, "I am also of the view that the terms and conditions to be prescribed by the National Assembly is a condition precedent to the exercise of the unimpeded right of access to inspect the declaration forms submitted to the Code of Conduct Bureau by public officers."

He ruled that since the National Assembly had not prescribed the terms and conditions for the exercise of the right of access to inspection, the suit was incompetent. He relied on Odua Investment Co. Limited v. Talabi (1997) 10 Nigerian Weekly Law Report (Part 523), page 1, where "it was held that any non-compliance or defect that goes to the competence or jurisdiction of a court is fatal. It renders the proceedings a nullity however well conducted and decided."

Justice Jinadu said he agreed with the government's lawyer that MRA has no right to ensure that Nigerian public officers comply with the provisions of the Code of Conduct for Public Officers because that right is reserved for the Code of Conduct Bureau by the provisions of paragraph 3(d) in Part 1 of the Third Schedule to the 1999 Constitution.

But he stressed that "the right of access to inspection of the declaration forms in the possession of the Code of Conduct Bureau is for its exercise subject to the terms and conditions prescribed by the National Assembly which have not been prescribed."

The judge said the resultant effect of the court's finding that MRA has an inchoate right exercisable only after the National Assembly has prescribed the terms and conditions upon which MRA can exercise the right of access to inspect the declaration forms in the Bureau's possession, therefore, means that MRA has no right of action, lacks locus standi or capacity to institute the suit and consequently, that the court lacks the jurisdiction to adjudicate on the matter.

He accordingly upheld the government's objection and struck out the suit.
Media Rights Monitor is published monthly by the Media Rights Agenda (MRA), an independent, non-governmental organisation established for the purpose of promoting and protecting press freedom and freedom of expression in Nigeria. MRA is registered under Nigerian law and has Observer Status with the African Commission on Human and Peoples’ Rights.

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LETTERS

No Objective Reporting In Hunger

Permit me to eulogise your efforts. Everyone on your team is doing a great job. More Vaseline to your elbows.

I read your interview with Mr. Nosa Igiebor, it was refreshing (Media Rights Monitor Vol. 6. No. 2. for February 2001). If journalists continue to earn peanuts; if nothing happens to change this serf/lord relationship between journalists and publishers, then we can never expect complete honesty, truth and objectivity from most journalists. After all, a man has got to live - and to live as comfortably as possible.

Hannatu Yakubu
Nigeria Television Authority
Garki, Abuja

You Have My Heart And Prayers, Wonderful Woman

Thank you for being so kind as to put me in your subscription list. You are doing a good job with the Media Rights Monitor. I wish you more strength!

I felt so touched by the story of the defunct The Sunday Magazine (TSM) publisher, Mrs. Chris Anyanwu, "I Carry A Scar, Yet I Forgive" which you ran in your January edition (Vol. 6. No. 1).

That exemplary representative of womanhood on earth, one of the finest of them all, a rare gift to the journalism profession, really touched my heart with her nobility, courage and exemplary dedication to duty! And I pray that she would be guided further to enriching recognition on her served duty. I wish Mrs. Anyanwu all the strength!

Again, your interview with Newswatch Chief Executive Mr. Ray Ekpu "Our Adversities Strengthened Us" in your Vol. 5 No. 10 edition was moving and inspiring!

Keep up the good job you are doing with the journal. You are doing the cause of our sacred duty a lot of good.

Banji Ayoola
The Comet Newspaper
Akure Office
Ondo State

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EXECUTIVE WATCH

Nigerians Reject President Obasanjo's Plan To Deregulate The Petroleum Sector

Nigerians, already burdened with a plethora of economic problems, have appealed to President Olusegun Obasanjo to jettison his plans to deregulate the petroleum sector of the country's economy. The move, they say, would add greatly to the burdens they presently face and irrevocably worsen their economic fortunes, given the centrality of fuel to economic life.

Rather than deregulate the sector, which a large majority of Nigerians believe would automatically lead to spiraling prices of goods and services, they advised that the government should check the excesses of petroleum products marketers, whom they accuse of hoarding and diverting the products to neighbouring countries, by ensuring vigilance and stiff penalties on
culprits. They also called on the government to ensure that all the nation's refineries are optimally functional while it should also encourage the establishment of private refineries.

They advised that the government should invest massively in other sectors of the economy such as agriculture, science and technology, and solid minerals, ensure effective and efficient distribution of petroleum products and shun the dictates of the International Monetary Fund (IMF) and the World Bank, both of which they accuse of advising the government to deregulate the sector in particular and the economy in general.

Nigerians made these calls in a survey recently conducted by Media Rights Agenda (MRA). The survey was conducted by MRA under its Executive Watch project. It was conducted between April 10 and 24, and involved the administration of 8,000 questionnaires on Nigerians from all walks of life in eight major cities drawn from the main regions of Nigeria, including the Federal Capital Territory, Abuja. Out of these, 6,291 questionnaires were completed and returned.

The cities are: Lagos, Ibadan, Benin, Kaduna, Kano Enugu and Port Harcourt. One thousand copies of the questionnaires were administered in each city covered in the exercise.

There has recently been a flaring of tempers between the Nigerian Labour Congress (NLC) and the government over the plans by President Obasanjo to deregulate the petroleum of the economy. President Obasanjo said petrol would not cost more than N40 per liter in the planned deregulation. He argued that the attendant increase in the prices of petroleum products following the withdrawal of "subsidy" would make the commodities less attractive to smugglers and stop its "wasteful" use by Nigerians. The President also said the deregulation would enable the government save over N200 billion, which he claimed government uses to subsidize the prices of petroleum products. This money, he said, would be used to improve the standard of basic infrastructure in Nigeria.

The NLC, through its President, Comrade Adams Oshiomhole, faulted government's argument regarding the subsidy claim saying that any such talk is fraudulent. The NLC and Nigerians opposed to deregulation argued further that the action would not only increase the cost of petroleum products beyond the reach of the vast majority of Nigerians, it would result in inflation in the cost of other products and services due to the central importance of petroleum products in economic and social activities. Further, they say over time when previous governments had to increase fuel prices, the "savings" have not been used for poverty alleviating programmes as promised by these governments, and there is no reason for them to believe that things will be different this time.

President Obasanjo's government had in June 2000 increased the price of petrol from N20 to N30 per liter. But it took the resolute resistance of Nigerians championed by the NLC to force the government to reduce it to N22 per liter.

This time around, the NLC also started a nation wide mobilisation of its members, civil society organisations and Nigerians generally, for a strike action should President Obansanjo carry through the deregulation plan.

Majority of Nigerians who responded to the survey, precisely 4,204, representing 66.8 per cent, said they do not believe there is subsidy on petroleum product, a position the main organised opposition to the deregulation plans, the NLC, has maintained.

However, 1,983 of the respondents said they believe the government presently subsidizes petroleum product. The remaining 104 respondents were undecided.

Regarding the question whether respondents support the plans by President Obasanjo to deregulate the petroleum sector, 4,548 respondents answered "No" while 1,737, answered "Yes". This stands at 27.7 per cent for deregulation as against 72.2 per cent who do not approve of it. However, four respondents were undecided as to whether they support the proposed deregulation of the petroleum by President Obasanjo.

For respondents who do not support the deregulation of petroleum products in the light of the reasons given by the government, they suggested a number of actions by government as
alternatives. These include: Government should check the excesses of petroleum products marketers such as hoarding and diverting the products to neighbouring countries, by ensuring greater vigilance and stiff penalties on defaulters, 2,087 respondents; Government should ensure that all the nation's refineries are functional while it should also encourage the establishment of private refineries, 629 respondents; Government should invest massively in other sectors of the economy such as agriculture, science and technology, and solid minerals, 555 respondents; Government should ensure effective and efficient distribution of petroleum products, 137; and Government should shun the dictates of IMF and the World Bank, 19 respondents.

Some of the other 153 respondents were undecided and others not usable.

However, among the 1,739 respondents who support the plan by President Obasanjo to deregulate the petroleum sector, 399 believe that the exercise would stop smuggling and halt Nigerians' wasteful use of the products; 371 believe it would save government a huge sum of money, and 766 others believe the exercise would yield both results. Two hundred and six other respondents were undecided.

As an indication that the resistance to the deregulation exercise may have been informed by other reasons, most of the respondents said they do not trust government to use the money realised from the removal of "subsidy" for the provision of social services as the government has consistently assured.

Specifically, 4,665 of the total respondents said they do not trust government to use the money realised from the removal of "subsidy" for the provision of social services. One thousand six hundred and seventeen respondents said they trust the government, while nine others were undecided.

In percentage term, 74.2 per cent do not trust the government and 25.8 per cent trust it.

Similarly, an overwhelming number of respondents indicted previous governments for failure to put to good use the money realised from previous increases in the prices of petroleum products for truly beneficial purposes.

Out of the total number of respondents, 5,384 said previous increases in the prices of petroleum products have not yielded dividends for the society, 833 respondents said previous increases in the prices of petroleum products have yielded dividends, and 74 were undecided.

Responses to a question whether respondents think Nigerians are wasteful in fuel consumption, showed similar pattern as to what respondents think of the use to which the money realised from previous fuel price hikes has been put to.

Similarly, 5,203 out of the total number of respondents do not think it is right for the president to insist on the planned deregulation when the overwhelming number of Nigerians say they do not want it. But 1,079 respondents do not however feel it is wrong for the president to overrule Nigerians. Nine were undecided.

**NBC Dialogues With Broadcast Executives**

The National Broadcasting Commission (NBC), the nation's broadcast medium regulator held a two-day workshop for Programme Managers and Chief Executives of broadcast stations in the country on April 5 and 6 in Abuja. It was one in the series of workshop organised by the NBC to ensure that broadcasters complied with the rule of objectivity and social goals of broadcasting.

In an opening address, the Director General of the NBC, Mallam Danladi Bako, who stated the aims of the workshop, decried the situation where programmes and commentaries are used to run down other people due to their political affiliation, religion and tribe. These, he said, are some of the problems the workshops are meant to solve. He assured participants that their job are secured as the National Assembly, acting in line with the NBC recommendation has pledged to stop the victimisation of media executives as long as they are objective in the discharge of their professional duties.
He threatened that the NBC, having been equipped with full powers to withdraw licenses of erring stations, will not hesitate to apply such powers. He again accused some state-owned broadcast stations of continuing to disregard the code of operations. He cited Kebbi State owned Broadcasting Corporation as an example of a station which the state government is interfering with the professional duties of its chief executive.

Mallam Bako alleged that Kebbi State, ruled by an All People's Party (APP) government, sacked the broadcasting station’s Chief Executive Officer for carrying a People's Democratic Party (PDP) advert. He also accused the Zamfara and Anambra State broadcasting stations of pandering to the whims of the states' chief executives to the detriment of public interest.

Information and national Orientation Minister, Prof. Jerry Gana, who was represented by Dr. (Mrs.) Sefiya Mohammed, directed the NBC to properly scrutinise proposals by foreign media interested in investing in the nation's broadcast industry so as to save our country from being taken over by foreign investors. The Minister said: "Our airwaves shall be considered sacrosanct, and it shall only serve the great and noble cause of Nigerian people and media practitioners. I consider it rather obnoxious to fight off one form of colonialism only to replace it with another form from the back door."

The minister praised the Director General of the NBC for his untiring efforts at ensuring that broadcast stations served the needs and interests of the public.

Veteran broadcaster, Ambassador Olusegun Olusola delivered the keynote address on the topic: "Programming for National Integration." He supported the continued regulation of the broadcast industry because of the sensitive role it plays in the life of any country. He said; "...just as broadcasting has been dedicated to education, information and entertainment, so has it kick-started and detonated wars."

The workshop called on broadcasters to always project the good image of the country.

**Politician Threaten To Sue ICNL Over Alleged Libel**

A politician, Otunba Fasawe has written to the management of Independent Communications Nigeria Limited (ICNL) publishers of TheNEWS and Tempo magazines asking to be paid the sum of N2 million for an alleged libelous article. The article entitled: *Otunba Fasawe, Obasanjo's Secret Adviser*, appeared in the April 23 edition of TheNEWS magazine.

In addition, Otunba Fasawe has asked ICNL to write an apology to him within seven days. He said the publication portrayed him as an unpatriotic Nigerian on a mission to destroy the economy of the country.

In the letter addressed to Bayo Onanuga, Editor-In-Chief and Babafemi Ojudu, Managing Editor of TheNEWS magazine, Otunba Fasawe alleged that paragraphs 14, 15, 16 and 17 of the said publication lowered his reputation in the estimation of right thinking members of the public and exposed him to hatred, contempt and ridicule.

The letter, signed by Sylva Ogwemoh of the politician's law firm, Marine Partners, threatened to take the media outfit to court if it refused to meets its demands.

Otunba Fasawe accused the magazine of premeditated and clandestine move to blackmail him.

**NUJ National Secretary Resigns**

Mr. Mohammed Khalid, the National Secretary of the Nigeria Union of Journalists for the past three years resigned his appointment with effect from June.

He gave notice of his resignation at the National Executive Committee (NEC) meeting of the Union held in Ilorin giving it the mandatory three months notice beginning from April 1.
His resignation followed the meeting's deliberation on the report of the Special Investigation Commission set up by the Union in Sokoto in September 2000 to probe into alleged fraud at the National Secretariat totaling N500,000.00 as well as other matters.

MRA Writes World Bank President As Campaign Against Its Policy On Information Disclosure Gains Momentum

As the global campaign launched by a world-wide coalition of Non-Governmental Organisations (NGOs) against a proposed World Bank Policy on information Disclosure which seeks to limit access to some of its most important activities, gains momentum, Media Rights Agenda has written the Bank's President, James Wolfensohn, urging him to seriously consider broadening his review of the Policy to incorporate the elements of access to information.

The Bank is currently revising its 1993 Information Disclosure policy. The NGOs have demanded that the Bank move beyond current proposals that limit the public's right to know about projects and adjustment operations financed by the Bank.

The main requests from the disclosure critics are the release of All Country Assistance Strategies; The President's Report, Tranche Release Memorandum and project documentation relating to structural adjustment and sectoral adjustment; aide memoires, project status reports, policy papers and country policy and institutional assessments; and Board minutes or summaries of Board discussions that relate to project and adjustment lending.

The coalition, made up of organizations, representing environment and development groups, labor unions and networks spanning the political spectrum, are joined by journalist associations from around the world, is expressing their concern that billions of people affected by the Bank lending continue to be denied important information.

Media Rights Agenda in three separate letters on April 17, addressed to the Bank's president, vice-president, Ms. Joanne Salop, and Disclosure Policy department, said while it welcomes the review, particularly the proposal to disclose more documents, it is, however, concerned that the proposals fail to fully guarantee the public's right to know in accordance with international standards. MRA expressed its believe that the Policy needs substantial revision to meet these standards.

According to MRA, in the letter signed by its Executive Director, Edetaen Ojo, the right of every person to access information held by public bodies, including the World Bank, is a fundamental human right, and not a privilege.

It urged that the review of the Policy should incorporate the elements of Independent Review whereby persons denied access to the Bank’s documents can have a right to appeal such refusal to an independent body. Such a right of appeal, MRA noted, is crucial to the success of any disclosure system because in the absence of a review body, there is no independent check on whether a refusal to disclose information is in accordance with the applicable law or policy.

MRA also called on the bank to ensure that the review provides for a clear process guarantees, including requirements of timely decision-making, and that refusals be accompanied by substantive written reasons. This, it said, is necessary to prevent undue delay in the provision or refusal of information, as well because requesters have a right to know why their requests have been refused.

Further, MRA implored the Bank to ensure that in the events that there are documents which review the Bank is seeking exceptions, it should ensure that such refusal to disclose information meets legitimate aim listed in the law/policy; show that disclosure of such documents threatens harm to that aim; and that the harm to the aim is greater than the public interest in having the information disclosed.
Presently, the exceptions contained in the World Bank's Policy only serve general legitimate aims, but some of the exemptions are not subject to a harm test and none are subject to a public interest test. In fact, for some information, the World Bank appears to have ceded full control over the designation of the information as secret to member States, rather than applying the objective test stated above. For example, information that is provided to the Bank on the understanding that it is "confidential" cannot be disclosed, unless the source has consented. Since there is no requirement to show that disclosure threatens harm to a legitimate aim, MRA noted that it is obvious this has the potential to significantly undermine the whole Policy.

MRA also called on the Bank to ensure that exceptions should always be subject to a public interest test. For example, the Policy exempts information where disclosure would be detrimental to the interests of the Bank, a member country or Bank staff. In this case, any information exposing corruption would be detrimental to one of these interests, yet it is clear that it should, in many cases, be subject to disclosure.

MRA further called on the Bank to provide protection for whistleblowers. Noting that civil servants and other individuals in the public sector sometimes have access to information which may expose official wrongdoing, and it may be of a very serious nature, but MRA observed that they are afraid to release it because they may face legal or employment-related sanctions, that protection for individuals who release such information - sometimes referred to as whistleblowers - is crucial to the exposure of the wrongdoing and to public accountability.

MRA, therefore, urged the Bank to ensure that its Policy on Information Disclosure being revised should establish an independent body to review refusals by the Bank to disclose information; include strict timelines for the disclosure of information and a requirement that any refusals be accompanied with substantive written reasons; require that all exceptions are subject to harm and public interest tests; and provide protection for whistleblowers.

Following the intense lobby by the coalition of NGOs, the Bank extended comment deadline to March 31 and decided to hold a series of consultative meetings with outside groups calling for a more liberal information disclosure policy. One of such meetings held on April 6 at the Bank headquarters and was attended by several dozen representatives of NGOs. Joanne Salop, Vice President of Operations Policy and Strategy, a key Bank decision-maker, and Colin Bruce, the Bank's principal staffer on the disclosure matter, also attended the meeting. The consultation was not open to the press, despite several requests.

Further consultations were held on April 18 in Brazil, two others were held in Beiruit on April 23, and the last one was held in Cairo, Egypt on April 25. The Bank was expected to conduct more than a dozen such sessions around the world. The Bank staff will then prepare a summary of the comments received, which will be released.

It will also prepare a "revised issues paper" which will contain the final staff recommendations. This will probably be released, and in addition, the Bank will put out a revised disclosure policy incorporating the recommended changes.

At the Washington consultation, Graham Saul, representing the Bank Information Center, a Washington-based NGO, and others, urged the Bank to live up to its own statement backing more empowerment or face a serious credibility gap.

Since the Bank has almost completed consultations with outside groups, Bank officials are anticipating a board decision in July. While opponents of the stringent measures are beginning to feel that the final staff recommendations will be somewhat more liberal than contemplated in the draft proposal, they still fear that changes are likely to fall short of the reforms they seek.

Ahead of the World Bank's 2001 Spring Meetings slated for July, the coalition of NGOs at a press conference on April 26, at the National Press Club in Washington, again called on the World Bank to increase public access to information. The coalition used the occasion to deliver a letter signed by more than 500 organizations from over 100 countries demanding for greater transparency to the bank officials.
Among signatories to the letter were Lucy Dalghish, Executive Director, The Reporters Committee for the Freedom of the Press; Luckson Chipare, Regional Director, The Media Institute of Southern Africa, Windhoek, Namibia; Richard Akoi Larbi, Projects Officer, West African Journalists Association, Accra, Ghana; and Ian Marquand, Freedom of Information Committee Chairman. Others are Edetaen Ojo; Soji Akinrinade, Deputy Editor-in-Chief, Newswatch Magazines; Owais Aslam Ali, Secretary-General, Pakistan Press Foundation (PPF), Karachi, Pakistan.

At the press conference, Rudolf Amenga-Etego, Coordinator of the Globalization Response Program of the Integrated Social Development Centre (ISODEC), a Ghanaian NGO, noted that: "The Bank negotiates macroeconomic and sectoral reform in almost total secrecy. It talks about including citizens in decision-making, but without information, how can we participate?"

"Every time the Bank keeps an important document confidential, they deny journalists the ability to inform the public about projects and policies that affect peoples lives," says Eunice Mafundikwa, a journalist and member of the Media Institute of Southern Africa.

Other speakers at the press conference included Dr. Aminata Dramane Traore, former Minister of Culture and Tourism in Mali; Phil Twyford, Advocacy Director of Oxfam International; Graham Saul of the Bank Information Center; and Kjeld Jakobsen, the International Secretary of the Central Unica dos Tabalhadores (CUT), the largest Brazilian trade union federation.

**UNESCO To Finance 24 Media Projects In Africa**

United Nations Educational, Scientific and Cultural Organisation’s (UNESCO) International Programme for the Development of Communication (IPDC) plans to strengthen the media in Africa by making funds available to support 24 media projects in the continent.

According to UNESCO in a communiqué, the projects include the setting up of an independent press authority in Kenya, a community radio in Mali, a printing press for the Department of Journalism in Malawi’s University Institute of Technology, and an inter-regional project involving universities and training centres throughout the world, among others.

The IPDC said it selected the projects on the basis of their impact on the strengthening of media pluralism and the promotion of press freedom, training activities, creation and strengthening of community media and lastly, information and communication technologies.

UNESCO said in the communiqué that several countries have already pledged assistance, with Denmark committing itself to 500,000 dollars, Germany 100,000 dollars, Luxemburg and the Netherlands 150,000 dollars each, and Norway 250,000 dollars.

Over 50 countries have provided 85 million dollars since 1981, distributed between more than 900 IPDC projects, the majority of which are in developing countries.

IPDC was established in 1980 to identify the needs of developing countries in the field of communication, and to help them develop their human and technical resources, as well as promote technology transfer with a view to bridging the gap between industrialised and developing countries.

**Journalists, Free Expression Groups Condemn Attacks On Journalists In The West African Sub-region**

Rising from a two-day conference on Monitoring Violations Of Media Freedom In West Africa held in Bamako in Mali on March 29 and 30, 2001, as part of the Media for Democracy programme, journalists and free expression activists condemned the tendency of leaders of the sub-region to repress press freedom and dissenting views. In a communiqué issued
at the end of the conference, participants called on the governments of West Africa to immediately stop attacks on press freedom where they occur.

Participants at the conference were from the International Federation Of Journalists (IFJ) and West African Journalists Association (WAJA) including several countries in the sub-region. These are the National Journalists Union Of Mali (UNAJOM), the Union of Journalists of Mali, the Mali press house and observatory, Sierra Leone Association of Journalists, Gambia Press House, Togo Press House, Press House Norbert Zongo of Burkina Faso, Union of Journalists of Senegal, Association of Journalists of Niger, International Press Center, Nigeria, Association of the Independent Press in Mauritania, media observatories of Senegal and Benin, Ghana Journalists Association and the Ghana Journalists' Ethics Committee.

Participants expressed solidarity with all journalists who are threatened and harassed for carrying out their profession and said they protest against any arbitrary arrest, detention and harassment against journalists in West Africa.

Participants also called on WAJA to increase responses and protests against violations of press freedom in the sub-region, and thereby adopted a three-point recommendation concerning Press Houses, Media Observatory and WAJA.

Concerning Press Houses, participants agreed that the principal aims of the press houses are to serve as a meeting point for all journalists and to bring together the journalistic profession in support of media freedom and media pluralism, publicising attacks on media freedom and journalists' rights or organizing further training where appropriate.

They, therefore, called on the press houses to focus on the need to work together; publishing clear and transparent reports of accounts and activities; constantly up-date their web sites and linking them to the WAJA web site; organising management training for press house staff; organising exchange of information and advice on preparing project proposals and seeking donor funding among the press houses in the different countries.

They urged the press houses to call on WAJA and IFJ to help the press houses obtain funds; WAJA members to be more active in mobilising their members; and WAJA to act more quickly in cases of violations of press freedom.

Secondly, concerning the Media Observatories, participants noted that the need for media observatories is recognised in virtually all countries of West Africa but stressed that the observatories need to receive the means to ensure their proper functioning. They called on the media observatories to focus on preparing a clear and realistic budget; promoting ethical standards focusing on one specific problem rampant in West African journalism: the use of per diems; informing on the problem of working conditions and calling for the adoption of collective agreement as a safeguard for journalists' ethics. Others are that media observatories should lobby for access to assistance funds for the press to be depended on the ethical conduct of the media as defined by the code of ethics of the journalists and monitored by the media observatories; launching a website for the network RIAAM (Network of African Media Self-regulatory Bodies); preparing a report on the state of media ethics; seeking diverse sources of funding from local organisations and authorities and from outside donors.

The media observatories also called on the press houses, where they exist, to provide space for the observatories to function; the journalists' associations to support the observatories and help them have an office in order to carry out their mission and as well WAJA and the IFJ to support the lobbying against the per diem culture in journalism and other ethical problems, for the adoption of collective agreements and for making access to assistance funds for the press dependent on the respect of the code of ethics; IFJ and GRET to assist the observatories to seek funding and to obtain flexible arrangements for funding from donors that respond to the different needs of the different observatories.

Concerning WAJA, participants recommended that it should be open for membership to all journalists' organisations in the region that are in line with the WAJA constitution. At the same time, participants said WAJA should continue to promote unity in the profession and
should, therefore, establish criteria for admission and membership that take into account the level of representation and activity of each journalists' association or union; offer its advice and moral support to members faced with difficulties; use and further promote the press houses to regroup the journalists' profession and to organise exchange of information especially in publicising attacks on media freedom and journalists' rights.

On the question of payment of fees to WAJA it was recommended that WAJA could either maintain the current level of fees of 100,000 CFA or could consider a system of proportional representation and payment of fees in force in the IFJ including the rules for expulsion of members who fail to meet their obligations. This should be done in the framework of more formal relations with the IFJ.

They recommended further that WAJA should seek funding to provide a full version of the WAJA web site and the Freedom link newsletter in English and in French and welcomed the decision of the President of Senegal, Abdoulaye WADE, to establish, with the support of the Senegalese state, a press house that will accommodate SYNPICS, WAJA and the co-ordination of the Media for Democracy programme. The meeting appreciated this decision and wished its quick implementation.

Participants directed the President and the General Secretary of WAJA to publish communiqués each time they participate in meetings on behalf of WAJA and welcomed the good relations between WAJA, IFJ, IFEX, as well as ECOWAS, where WAJA has observer status.

Participants further agreed that in order to prepare for the next WAJA Congress, the General Secretary should circulate the WAJA statutes for their comments and further agreed to establish a committee to prepare proposals to the Congress. The Committee consist of WAJA President Kabral Blay-Amihere, and General Secretary, Alpha Sall, Ousmane Maiga, UNAJOM, Mali, Ibrahim Tayyil Bah, SLAJ, Sierra Leone, and Gabriel Baglo, Media for Democracy Coordinator for West Africa.

Free Expression Promoters Disagree Over “Balance” Reports

A call by the three international rapportuers promoting freedom of expression on the media to "balance" its reports between efforts to combat intolerance and protection of the right to freedom of expression, has been contested by the World Press Freedom Committee (WPFC) which said such a call is a restriction of free speech. The three special international mandates promoting freedom of expression are the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Mr. Abid Hussain; the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, Mr. Freimut Duve; and the Special Rapporteur for Freedom of Expression of the Organization of American States (OAS), Dr. Santiago Canton.

The international mandates issued the statement as preparations hot up for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance slated to hold in Durban, South Africa from August 28 to September 1, 2001.

The three mandates had in the joint statement stressed a importance of the free flow of information in combating racial intolerance.

But WPFC, in a letter to the United Nations High Commissioner for Human Rights, Mary Robinson, said it is unable to reconcile itself with the position of the mandates, specifically where it spoke of "...a moral and social obligation" by the news media "to make a positive contribution to the fight against racism, discrimination, xenophobia and intolerance," and as well the need for a "balance" between efforts to combat intolerance and "protection of the right to freedom of expression."

The Rapporteurs had also called for restrictions on hate speech to conform with international standards in order not to run foul of the freedom of expression requirement set out
and recognized by various international instruments, including the Universal Declaration of Human Rights in its Article 19.

The Statement noted: "The free flow of information and ideas is one of the most powerful ways of combating racism, discrimination, xenophobia and intolerance. There should be free access to information which exposes or otherwise helps combat these problems...."

The statement noted that: "Media organisations ... have a moral and social obligation to make a positive contribution to the fight against racism, discrimination, xenophobia and intolerance."

However, the statement highlighted the importance of adequate ‘legal safeguards to protect freedom of expression and noted that hate speech laws have in the past been used against those they should be protecting. They drew attention to the need to ensure that any restrictions on the Internet does not undermine the role of this unique medium in promoting the free flow of information and ideas.

But in its letter dated April 25, 2001, to Mary Robinson, and signed by James H. Ottaway Jr., Marilyn J. Greene, and Ronald Koven, Chairman, Executive Director and European Representative of WPFC respectively, the organisation expressed concern over the statement by three international rapporteurs on freedom of expression, saying that "freedom of speech cannot be forced into ‘balance’ without being restricted". The practicality of that, WPFC said are very dangerous notions that echo a number of declarations and laws that have been used and often still are being used to stifle free speech and press freedom in many countries.

The WPFC, which includes 44 journalists organizations in six continents, expressed "distress and deep concern" over the joint statement. WPFC said to speak of "a moral and social obligation" by the news media "to make a positive contribution to the fight against racism, discrimination, xenophobia and intolerance" and to alleged that there is a need for a "balance" between efforts to combat intolerance and "protection of the right to freedom of expression", "are very dangerous notions that echo a number of declarations and laws that have been used and often still are being used to stifle free speech and press freedom in many countries. Freedom of speech cannot be forced into "balance" without being restricted".

WPFC, therefore, called on the UN High Commissioner for Human Rights to "do everything in your power to see to it that no such views or approaches are contained in any final declarations or other normative texts adopted at the Durban conference".

WPFC said while it recognized that the joint statement of the three international freedom of expression rapporteurs was well-intentioned, it noted that similar statements of obligations or roles assigned to the written and broadcast press by others have been exploited to curb free speech. It cited the case in the former Soviet Union and the Soviet bloc and said such practice continues to be the case in a number of their successor states.

WPFC also recalled that UNESCO tried to adopt a similar international Declaration in 1978 that was an obvious cover to justify international press controls. It then cautioned that the press must not be assigned roles or obligations by outside forces, while affirming that the press in democratic countries has, indeed, contributed in very large measure and in many forms to the struggle against intolerance.

WPFC noted: “This is, as it should be, a source of justifiable pride, but this endeavor has been and should continue to be one that is freely and voluntarily assumed by news media outlets, and not imposed upon them by anybody else, WAFC stressed”.

It also added that: “If others can mandate good causes for the press to undertake, then the principle is set that they can also mandate bad causes. Or, as is more commonly the case, they can and have demanded that the press serve bad causes masquerading as good ones. This is normally accomplished by using Orwellian language shifts to redefine the bad in the terminology of the good”.

While noting that it does not for an instant question the legitimacy of a struggle against "hate speech," discrimination and intolerance, WPFC said it does, indeed, subscribe to the need
for governments and international agencies, NGOs and individuals to conduct that combat in the interests of democratic societies. But we know through bitter experience the damages inflicted by authoritarians governments against free speech and press freedom in the name of noble-sounding causes.

Furthermore, WPFC said it hold the fundamental position that driving "hate speech" underground only makes it harder to identify and counteract, and to fight intolerance, it must be readily identifiable. Indeed, it said there is truth in the saying, "The best disinfectant is sunlight."

WPFC held that the libertarian free speech position is not in contradiction with regional or family values or social cohesion and that free reporting and debate can serve in the long and even the short run to strengthen such values.

WPFC said that it is true, as is often asserted, that the United States -- where free speech/free press approaches have been most vigorously applied -- is a country free of social tensions and conflicts, and even widespread violence, in very recent times. Yet, despite those extreme circumstances, freedom of speech was not abridged (except, of course, in the limited cases described by an eminent U.S. Supreme Court justice as barring the right to "cry 'Fire!' in a crowded theater.")

It, therefore, appealed that the Durban conference must not reinvent the same "misguided" theories that were defeated in the debate over the "New World Information and Communication Order", and said it acknowledge and welcome the view of the three freedom of expression rapporteurs that there must be no prior censorship and that "hate speech" and some defamation legislation has frequently been used to silence those it was meant to support. The logical conclusion, it said, is that such pretexts to cut off free speech should not be provided.

**Togolese Authorities Seize Copies Of The Weekly Le Regard**

Togolese authorities on March 27, 2001, seized an un-specified number of issues of the weekly *Le Regard*, a newspaper which has close ties to the opposition, from vendors in Lomé. The newspaper's director claimed that none of the 3,500 copies put on the market were returned.

The minister of the interior and security, General Seizing Walla, who ordered the seizure, allegedly reproached the newspaper for publishing an article titled: Lomé refuses the European Union's financial support for legislative elections - scheduled for October - which he perceives as slanderous.

According to *Le Regard*, the government seeks to "avoid controls by the EU, which would not provide financial support for elections which are turned into a 'hold up'." General Walla allegedly stated that "the newspaper has to present proof" to confirm the information contained in the article.

The government's decision is rooted in the new Press Code, which includes the provision that "in the context of his police powers", the minister of the interior and security can "order the seizure of copies of any publication whose contents constitute a violation of the press law".

Following the introduction of this amendment, six newspapers were seized during year 2000. On August 2, *Le Combat du Peuple*, an opposition weekly, filed a suit at the Supreme Court's Administrative Chamber against the minister of the interior, for "abuse of power". As at January 1, the court had not ruled on the complaint.

**WAJA Alleges Post-Election Media Repression in Ghana**

The West African Journalists Association (WAJA) has alleged that the Jerry Rawlings' defeated National Democratic Congress (NDC) government in Ghana is assiduously
working at gagging free speech in the country. The NDC has issued two writs against the editor of the daily Evening News and the New Times Corporation (NTC) publishing company, seeking damages for articles published in the March 12 and April 3, 2001, editions of the newspaper.

In the first writ, the party is seeking damages for an article titled: NDC Attempted to withdraw 7.2 billion cedis for post election violence, while in the second, the party is seeking similar relief for an article captioned: Rawlings to Refund 116 million ESB...He is not qualified, neither is Ato Dadzie.

In both actions, the NDC is asking the court to place an injunction on chief-of-staff Jake Obetsebi Lamptey and the NTC, barring them from publishing libel against the party and causing or authorising it to be published.

Reports Say Abuse Of Freedom Of Association, Assembly Threatens Free Expression, And African Refugees Face Persecution

ARTICLE 19, the London based Global Campaign for Free Expression, has released two new reports indicating that the constitutional guarantee of the freedom of association and assembly in most sub-Saharan African is gradually being reduced to mere rhetoric by authorities who continue to abuse fundamental rights of their citizens, and another indicating that vocal African refugees face persecution.

In the report on the refugees titled: Voices in Exile, ARTICLE 19 details the inadequacy in the safeguard of the rights of refugees in Africa to freedom of expression and information by the United Nations and Organisation of Africa Unity (OAU), Conventions and how considerations for these rights are often overridden by political or practical considerations. The report cites instances of national authorities and UNHCR limiting refugees' freedom of expression or punishing them for speaking out, but also emphasizes the increasingly active role being played by African Non-Governmental Organisations (NGOs) in supporting refugee rights. The study looked at refugee law, policies and practice in Kenya, Liberia, Malawi, South Africa, Tanzania, Zaire/DRC and Zimbabwe.

The report identifies problems with the practice of governments and international agencies when it comes to refugees exercising their rights to free expression. It calls for a systematic and proactive approach by governments and international agencies in providing refugees with information - an approach which should include the active participation of refugees themselves. The report also noted that there is an urgent need to base policy and practice relating to refugees on an explicit acceptance that individuals retain fundamental rights guaranteed under international law.

The report criticised the prevalent practice by African countries to house and often confine refugees to camps. It said while such camps may be a convenient means of managing large refugee populations, they make it easier for authorities to restrict various rights, including freedom of movement and expression, and for pre-existing (often repressive) power structures to be preserved.

The report states that laws on "hate speech", "subversion" and "public order" are used to limit expression for refugees, particularly on political matters, and noted that selective and highly politicized application of such limitations may have far-reaching consequences. For example, the report said the Kenyan and Ugandan authorities actively support and encourage the activities of the Sudan People's Liberation Army (SPLA). On the other hand, refugees have been expelled from Zimbabwe simply for expressing views against the host country or their country of origin.

Voices in Exile describe the threat which refugee media poses to both host and home country governments. It sets out how refugee-run Radio Kwizera in Tanzania was taken over in
1996 by the Tanzanian army, who used it to help with forced repatriation; and how Radio Burundi attempted to jam it.

ARTICLE 19 also notes examples of UNHCR failing refugees and even actively punishing those who criticize officials or speak out on controversial matters. For example, the refugee status of a group of Congolese refugees in Tanzania was withdrawn in 1998 after their harsh criticism of UNHCR, and an Ethiopian refugee in Kenya was punished after being accused of instigating violence by organizing a human rights seminar.

The report also criticised the practice by the UNHCR headquarters to refer complaints directly back to the individual or officer against whom the complaint has been made, which it said often lead to unpleasant consequences for those already vulnerable. It said independent access to camps is difficult to gain due to obstruction by officials.

In another report entitled: Freedom of Association and Assembly: Unions, NGOs and Political Freedom in sub-Saharan Africa, ARTICLE 19 said that that the constitutional guarantee of the freedom of association and assembly in most sub-Saharan African is gradually being reduced to mere rhetoric by authorities who continue abuse of these fundamental rights of its citizens.

It noted that: "Without the full exercise of these rights, freedom of expression itself cannot be guaranteed". It said this is especially so in Africa, where face-to-face communication remains the principal method of transmitting ideas and information for the majority of the population, who do not have access to newspapers, radio, TV or the Internet.

The report focuses on Cameroon, Ghana, Tanzania, South Africa and Zimbabwe.

In yet another new report, ARTICLE 19 provides an overview of the three specialised mandates, with information on how the mandates were established, their scope and the main activities that have been undertaken. It also notes some important developments in Africa and the ASEAN region.

**SPECIAL REPORT**

**Year 2001 Portends a Bad Omen for The Media**

As the year 2001 enters its second quarter, there are ample indications that it may yet end with very unfavourable news for the media worldwide. A wave of extremely violent attacks perpetrated by governments and individuals against journalists has resulted in the death of no less than five journalists.

In Bangladeshi one journalist has been killed and another had his leg amputated. Nahar Ali, correspondent for the Bengali-language newspaper Dainik Anirban in Khulna (south-eastern Bangladesh) died in hospital on April 23, after he was kidnapped on April 18 in his village, Dumuria and found unconscious two days later. According to doctors, he died of brain damage and severe bleeding. The kidnappers broke his legs and arms before leaving him for dead. Police have accused a radical leftist group, the Biplobi Communist Party, of the killing.

Meanwhile, Prabir Shikder, Faridpur district correspondent for Dainik Janakantha, was seriously wounded when he was shot on April 20. Reports say that the assailants stopped the journalist by setting off a bomb blast while he was driving his motorcycle, shot him twice, and then viciously knifed him. Two days later, doctors had to amputate his right leg because of a bullet wound. The attack was linked to Prabir's recent critical reports on influential individuals who collaborated with the Pakistani army during the country's 1971 liberation war.

There has been over 34 cases of violence against media professionals in Bangladesh. The violence coincides with the approach of elections in June.

On April 1 and 2 during an opposition-led general strike, at least three reporters and two photojournalists were assaulted by police and activists from both opposition and ruling parties in a number of separate incidents. Government officials, civil servants and local authorities openly display their contempt for the security of journalists and for independent information. It was
alleged that members of the prime minister's Awami League and the youth movement, especially the Chatra League, are behind a large number of these extremely violent attacks. In one incident on January 25, United News of Bangladesh press agency journalist Tipu Sultan's hands were broken. The journalist, and several witnesses, identified the assailants as henchmen of the ruling party members of parliament in Feni. Supporters of opposition movements such as Chattra Dal and Chattra Shibir, are also known to harass and assault reporters accused of being hostile to their movements.

Some government officials have called for the suspension of BBC news programmes on national radio until one of the editors, Syed Mahmud Ali, is removed from the editorial staff. Such threats are reminiscent of the methods of former military regimes. Journalists linked to "political-Mafia groups" were suspected, but the exact motives have not been established and the killers have not been jailed.

New forms of censorship are also emerging. On February 28, the web site www.banglarights.com was disconnected, only 24 hours after it was launched. The state-owned provider allegedly cut off the human rights' website until an investigation has been carried out.

In Sri Lankan, the government is threatening tighter controls on foreign journalists after American journalist Marie Colvin was seriously wounded on April 16. Colvin, a correspondent for the British Sunday Times, was caught in a shootout between the Liberation Tigers of Tamil Eelam (LTTE) and government forces. She received wounds on her head, eyes, chest, and arms, and is recovering in hospital in the capital, Colombo. Colvin was named Best Foreign Correspondent at the British Press Awards in March. The government also directed Sri Lanka's overseas missions to be strict when recommending foreign journalists for visas.

In the Federal Republic Of Yugoslavia (Kosovo)/Macedonia, journalists have been subjected to a number of attacks since violent clashes between Albanian rebels and Macedonian security forces began in mid-March. Kerem Lawton, a British national and producer for Associated Press Television News, was killed on March 29 when a shell struck his car in Krivenik, a village in Kosovo near the Macedonian border. The 30 year-old journalist died from shrapnel wounds. At least two other civilians were feared dead in the attack and at least ten others were injured. Lawton had just arrived in Krivenik to cover the deployment of additional North Atlantic Treaty Organisation (NATO)-led peacekeeping forces.

In another incident the same day, a civilian car carrying two Agence France Presse correspondents was targeted by a sniper in Gracani on the Macedonian side of the border.

During violent clashes between Macedonian security forces and Albanian rebels in the Tetovo region in mid-March, almost all television stations were forced off the air because their transmitters were shelled. Macedonian public television was the only station left broadcasting in Tetovo. The shelling of media houses was attributed to armed Albanian groups. Journalists were routinely forced to stay in their newsrooms all night because of a curfew, while reporters and editors are being called up as reservists to serve in the Macedonian army.

On March 14 during a demonstration in support of Albanian guerrillas in Tetovo, journalists were attacked. Atanas Sokolovski, a journalist from the private television station A1, was reportedly manhandled by the crowd while trying to interview Albanians. He was taken to hospital and listed in serious condition. Also, a correspondent from Sitel television station was beaten by demonstrators and her video camera was broken. In another incident, Macedonian State Security prevented distribution of the international edition of the Skopje-based Albanian-language daily FAKTI to Western Europe on March 22. According to the Macedonian Media Center, the security forces' action was reportedly due to an article in FAKTI calling on the Albanian diaspora to support "extremists" in Macedonia.

In Mexico, Saúl Antonio Martínez Gutiérrez, deputy editor of the daily El Imparcial published in Matamoros, was found dead on March 24. Martínez Gutiérrez was found by police between the towns of Matamoros and Río Bravo, near the border with Texas, with four 9mm bullets in the head. Bruises on his body suggest that he had been tortured.
The journalist disappeared the evening before, while he was investigating Ignacio Coronel, a narcotics trafficker in the region.

Martínez Gutiérrez was the son of Gonzalo Martínez Silva, El Imparcial's editor and publisher. Martínez Silva believes that local drug traffickers executed his son because of articles about them in El Imparcial. He said that his son had received threats, but did not take them seriously. Police are also investigating the possibility that the attack may have been provoked by the newspaper's coverage of immigrant smuggling and official corruption.

Martínez Gutiérrez was the second Mexican journalist killed near the US border in a little over a month. On February 19, José Luis Ortega Mata, editor of the weekly Semanario de Ojinaga in the state of Chihuahua, was killed after publishing reports on drug trafficking in the region.

On February 28, Emin Usman, a prominent Uzbekistan writer and head of the Uygar Cultural Centre in Tashkent, died in suspicious circumstances while in detention, although authorities said he committed suicide. Usman was arrested on February 11 and held in the basement of the Uzbek Ministry of Internal Affairs (MVD) headquarters. He was accused of "distributing materials considered to be dangerous to public security."

Usman was suspected of translating material for a banned Islamic organisation - an allegation denied by his associates. It is also believed that Usman's name appeared on the Uzbek security service's "black list" due to his religious beliefs and activity amongst ethnic Uygars.

Usman was buried under tight security on March 1, with a "brain tumour" registered as the official cause of death. But sources say the evidence suggests that his death was the result of torture. A December 2000 report by Human Rights Watch, entitled: Uzbekistan: And it was Hell all Over Again, states that people detained by police in Uzbekistan are "routinely subjected to physical and psychological abuse."

Mamadali Mahmudov who along with two other writers have been detained since March 1999, for alleged involvement in the Uzbek opposition movement, has testified to having been tortured under interrogation.

In Kuwait, Hidaya Sultan al-Salem, owner and editor of the weekly Al-Majales, was murdered on March 20. The 66-year-old journalist was killed on her way to work when an assailant opened fire on her chauffeur-driven car in Kuwait City. After the murder, four people were arrested and interrogated. The news service reported that a police officer, Khaled Dhiyab al-Azimi, confessed to killing al-Salem because of an article she published on girls from his tribe, the Al-Awazem.

The journalist, who was also an active campaigner for full political rights for women had in the March 17 edition of Al-Majales, al-Salem wrote an open letter to Kuwait's Emir claiming that she had been "unfairly treated in her own country" after writing an article criticising police.

In China, Feng Zhaoxia, a journalist with the Gejie Daobao newspaper in the town of Xi'an in Shaanxi province, was found dead on January 15. Newspapers reports said the journalist was found in Sanqiao district with his throat deeply slit. A week after the body was found, police concluded that it was a case of suicide. However, the suicide hypothesis was rejected by the journalist's family, newspaper colleagues and the local journalists' associations, all of whom say Feng Zhaoxia was murdered as a result of his articles. The 48 year-old journalist and father of two children investigated local mafia activities and denounced links between these groups and certain authorities. Reports say a few days after the body was found, the provincial public information department banned all media reports about this crime.

In Africa, the situation has been no less disturbing for the media. In Liberia, authorities on February 21 took prisoners four journalists from the Monrovia daily, The News, on espionage charges. The four journalists remained in jail for several weeks. The journalists, Bobby Tapson, managing editor Joseph Bartuah, editor-in-chief Abdullah Dukuly, and news editor Jerome Dalieh at the offices of The News were arrested following an article authored by Tapson which appeared on February 21 edition of The News under the title: US$50,000 Spent on Helicopters.
Tapson reported that the Liberian government had spent US$50,000 on helicopter repairs and an extra US$23,000 on Christmas cards and souvenirs at a time when Liberia's civil servants have not been paid for months. The government claimed that the article was intended to "reveal national defense information to a foreign power for the purpose of injuring Liberia...in the event of a military and diplomatic confrontation."

The four journalists were charged with espionage and denied bail, on the grounds that espionage is a non-bailable offense under Liberian law.

The day after the arrest of the four journalists, officials shut down The News and three other independent dailies - The New National, The Analyst, and The Monrovia Guardian - allegedly for failure to pay tax arrears. The government claimed that The News owed back taxes amounting to 184,616 Liberian dollars (US$4600).

Meanwhile, on April 27, the Information Minister, Reginald Goodridge, announced that reports on fighting in the north of the country and on "national security issues" must be first cleared with the ministry. He described the order as a means of preventing disinformation that could cause confusion or panic in the people.

Clearly, such measures constitute a system of prior censorship by the government even as a state of emergency has not been declared, and they violate the right to freedom of expression, which is guaranteed by the Liberian Constitution.

In Zimbabwe, the government of President Robert Mugabe has intensified its siege on the media in the last couple of months. Death threats have recently been issued to Njabulo Ncube by war veterans. A newspaper, Daily News, also came under threat over alleged malicious reporting of President Mugabe's visit to Belgium; and expulsion of two foreign correspondents, Joseph Winter of the BBC and Mercedes Sayagues of the South African weekly Mail and Guardian, over alleged subversive activities.

On April 4, the Zimbabwean authorities charged to court Geoffrey Nyarota, Sandra Nyaira (f) and Julius Zaya, editor-in-chief and reporters respectively with the Daily News with criminal defamation. The charges, based on the Law and Order Maintenance Act, stem from articles on November 28, 2000, that linked President Robert Mugabe and the speaker of parliament, Emmerson Mnangagwa, to unauthorised payments allegedly made by Air Harbour Technologies (AHT) over the building of the new Harare International Airport. The Daily News broke the story on with a report that Hani Yamani, the owner of AHT (under contract to design and build the airport), had written to Mugabe to complain that he had already spent Z$165 million (US$3 million) in unauthorised payments and would have to make further such payments in the future.

The authenticity of the letter, which was published in the Daily News, has not been challenged. The payments are alleged to have been made to former Zanu-PF ministers, a nephew of President Mugabe's, prominent Zimbabweans and the Palestinian Ambassador Ali Halimeh. It is also claimed that US$20,000 was paid for building a mansion for President Mugabe. Geoffrey Nyarota has also been asked to report to the police for questioning regarding the Daily News' reporting of a law suit brought against President Mugabe in New York by relatives of victims of political violence. Alluding to the bombing of the Daily News printing press, Nyarota stated, "Somebody failed to deal with us physically recently. It appears somebody else is now attempting to exhaust us physically and mentally through the law courts."

In Sudan, authorities on April 12, detained Alfred Taban, director of the newspaper, Khartoum Monitor, and the British Broadcasting Corporation (BBC) correspondent and transferred them to army headquarters in Khartoum. He is being held under emergency law which partially suspends the rule of habeas corpus, allowing the Security Authority to hold individuals for up to ninety days without charge.

The arrest was carried out at a press conference held by church leaders in Khartoum following a government order the day before to move an Easter ceremony from the centre of the capital to a suburb. The reason for the detention is still unclear. Taban had previously been
arrested on February 24, 2001 along with Albino Okeny, editor-in-chief of Khartoum Monitor. On that occasion, both men were released after a few hours in detention.

In the Democratic Republic of Congo, Washington Lutumba and Jules-César Mayimbi, Lower-Congo correspondent with the Kinshasa-based daily newspaper Le Potentiel and with the daily Forum respectively, were both arrested and detained in connection with articles written about the sale of rotting wheat flour. Lutumba was arrested at his home on the evening of March 29, 2001 and taken to Congolese National Police cells. He was reportedly transferred the next day to the central prison in the city of Matadi. His detention is apparently linked with the publication of an article written by Lutumba which appeared in the March 15 issue of Le Potentiel. The article, entitled, Boma: 45,000 bags of rotting wheat flour unloaded on the Lower-Congo market denounced the marketing in the cities of Boma, Moanda, Banana and Kinshasa of wheat flour in the cities that was unfit for human consumption.

Mayimbi was said to have been arrested on April 5, 2001 and detained in the same prison. His article, published on March 26/27, 2001 in No.1535 of Forum was entitled, Imported wheat flour of dubious quality on the Bas-Congo market. Mayimbi quoted witnesses who had seen a boat deliver 45,000 tonnes of the questionable flour. An official complaint against the Mayimbi was made by the company selling the flour who are now seeking damages against him.

Lawyers acting on behalf of the two journalists have requested their provisional release. Sources close to the families of the two men have reported that Matadi court handling the prosecution wants Lutumba and Mayimbi to reveal their sources for the story. Both journalists are reported to be ill and were still in detention as at April 20.

In Algeria, authorities took as prisoner Arab Izarouken and Aouari Abdelkrim, publications director and columnist respectively for the Oran-based daily La Voix de l'Oranie. They have both been sentenced to six months' imprisonment for libel. The verdict was handed down by the Oran tribunal on April 7, 2001 and allows no possibility of parole. Izarouken and Abdelkrim were sentenced on the basis of an article that appeared in the newspaper in which a member of an organisation of children of war veterans described fourteen named individuals as a "local mafia". The fourteen were given the right to reply in the pages of the same newspaper.

ATTACKS ON THE PRESS IN APRIL 2001

Policemen Assault Photographer

A photojournalist with The Punch newspaper, Mr. Tade Adesungboye, was on April 3 manhandled by a team of five policemen from the Federal Criminal Investigations Department (FCID) at a Lagos High court premises for attempting to take photographs of a suspect, Aminu Mohammed, who was charged with the attempted murder of Chief Abraham Adesanya. Chief Adesanya is the leader of Afenifere, a pan-Yoruba socio-political group.

The policemen pounced on him when he (Adesungboye) attempted to take shots of the suspect sandwiched between the policemen as they were leaving the courtroom. While the most senior officer among them seized the camera, the others beat him severely. It took the intervention of another journalist and a court official to save Mr. Adesungboye from their assault. The policemen removed the film before returning the camera to the photojournalist.

When the superior officer was asked why they battered Mr. Adesungboye he replied that the photojournalist ought to have taken permission from him before taking the suspect's photograph.

Oyo State Government De-acredits Correspondent

The Oyo State government on April 3, withdrew its accreditation given to Mr. Dayo Omotosho, The Comet newspaper Bureau Chief in the Press Crew of the governor of the State.
In a letter signed by Chief Caleb Akanni Oyeniyi, the State Commissioner for Information, Youth, Sports and Culture and addressed to the editor of The Comet, the government said "accreditation given to the Correspondent in the press crew of the executive Governor of Oyo State Alhaji (Dr.) Lam Adesihna has been withdrawn with immediate effect." The letter advised The Comet Editor to provide a replacement who will be accredited.

No reason was given for the action but it was suspected that it was a reaction to a story in The Comet that the Oyo State Governor and his wife snubbed the wife of the Vice president of Nigeria, Mrs. Titi Abubakar, during the governor's son's wedding. The state information commissioner denied the story and declared Mr. Omotosho a persona non grata in the state government secretariat.

Thereafter, the journalist alleged threats to his life through series of unidentified calls. One of the unidentified callers, he said told him "you remember you are from Ondo State and any attempt by you to cause problem in the State will make life difficult for you."

The matter was, however, resolved when Mr. Omotosho was re-accredited on April 26 through a letter dated April 23 signed by the Chief Press Secretary to the governor, Alhaji Kehinde Olaosebikan.

**Justice Minister Demeans Journalists**

Nigeria's Minister of Justice and Attorney General, Chief Bola Ige (SAN) made a hate speech directed at journalists at Ibadan calling them a bunch of hungry people. He made the remark on April 21 at the Faculty of Basic medical Sciences, College of Medicine of the University of Ibadan Discourse.

He accused Nigerian journalists of being responsible for "the monster image" of the Osun State Governor, Chief Bisi Akande.

**NBC Prevent Commissioning of TV Station**

The National Broadcasting Commission (NBC) on Mach 30 thwarted the official commissioning of Here and There Television citing alleged illegality in its operation.

The NBC said the proprietor was given license to operate cable transmission on channel 71 and that the license expired about a year ago and is yet to be renewed. The NBC said further that the station was granted a cable license but operated an open terrestrial free to air transmission.

In July 1999, the NBC shut down the station over alleged violation of some technical operations by the station. It was allowed to open on the understanding that it will encode its signals in conformity with transmission standards and also settle an outstanding debt of N300,000.00. It was given six months moratorium to meet these demands.

The commissioning which was to be performed by the Oyo State Governor Alhaji Lam Adesihna was planned to also raise money. But the NBC ordered the abortion of the commissioning with the assistance of the state Police Commissioner. The NBC said it relied on Section 9.7.1 of the Broadcasting Code which states that "operating a television station without a license is a criminal offence." It added that failure to pay prescribed license fees contravenes schedule 3 Section 8A of Act No. 38 of 1992 setting up the NBC ant the breach attracts revocation of license.

**JOURNALISM / PRESS FREEDOM AWARDS**

**UNCA/Ranan Lurie Political Cartoon Awards**

The UN Correspondents Association has announced that it is receiving entries for its Second Annual UNCA/Ranan Lurie Award for Political Cartoons. The awards will be given at
UNCA's Awards Dinner at UN HQ in New York, late October 2001.

The UNCA/Ranan Lurie awards for political cartoons are $10,000 first prize, $5,000 second prize, $3,000 third prize and ten honourable mention plaques.

These awards are open to political cartoons printed in any publication published anywhere, in any language in the twelve months before August 1, 2001. The entry must consist of a reproduction only of the cartoons, as published, with name of publication and date included, accompanied by a newspaper reprint, and translated into English. Exhibits are limited to two cartoons per individual. Reproductions must be measure no more than 9 x 12 inches or 20 x 27 cms.

Successful entries will reflect the importance of human dignity, mutual respect and friendship between nations, as well as economic and environmental responsibilities towards each other. Winning cartoons will be chosen for their ability to enhance, explain and even help direct the spirit and principles of the U.N.

For full details and entry from, visit the website, www.LurieUNaward.com.

Entries must be submitted to: The UNCA/Ranan Lurie Political Cartoon Award, 375 Park Avenue, Suite 1301, New York, NY 10152, USA, or Telephone + 1 212 980 0855


UNCA Prize For UN Coverage

The United Nations Correspondents Association is receiving entries for its Seventh Annual UNCA Awards for best written and electronic media coverage of the United Nations and its agencies. The awards will be given at UNCA's Awards Dinner at UN headquarters in New York, late October 2001.

UNCA offers $5,000 gold, $2,500 silver and $1000 bronze awards for media coverage, and the costs of the first prize winner's trip to New York will be met by the Association if necessary. Secretary General Kofi Annan will present the prizes.

The awards are open to all journalists anywhere in the world, in any media, for the best books, stories, radio or television programmes or series covering the UN and its agencies published in the 12 months before August 1, 2000. The judges will be looking for entries with impact, insight and originality, and will take into account the courage and assiduity of the journalist. Investigative work will be welcome.

Multiple or joint entries will be accepted and work in print, radio or television between July of 1999 and the end of July 2000 is eligible.

Entries not in one of the official languages of the UN should have a translation into English or French, and video entries should be in VHS (preferably NTSC) format. A written transcript assists judging radio and television entries.

Entrants should send two copies each of their entry or entries to Millennium Award, UNCA United Nations, New York NY 10017, USA, or UNCA c/o Ian Williams, 235 East 49 St #1A, New York NY, 10017, USA

Deadline for entries is August 1, 2001.

Freedom Forum Invites Entries To Hold Media Forum

Freedom Forum, the U.S.-based international foundation dedicated to supporting free press, is receiving applications from interested journalists to attend its international forum this year in Zambia. The forum will examine media issues in Africa.

Forum programmes, called "The Media and Political Changes," will deal with problems faced by journalists trying to report accurately on elections and political change in countries where governments are evolving and press freedom issues are controversial. Prominent journalists from the region, researchers, government officials, and representatives of media associations will be featured at the meetings, according to Freedom Forum.

The Africa forum will be in Lusaka, Zambia, on September 13 and 14.
For more information, contact Donna Fowler at dfowler@freedomforum.org or the Freedom Forum centers in Africa. The contact information can be found at the Freedom Forum Website http://www.freedomforum.org/AFRICA http://www.ijnet.org/News/Africa

**Fund For Investigative Journalism**

The Fund for Investigative Journalism (FIJ) of Washington, DC in the United States is receiving applications for grants of $500 to $10,000 to reporters working outside the protection and backing of major news organizations, for investigative reports. The Fund also gives an annual $25,000 FIJ Book Prize which is awarded in November.

The grants are limited to journalists seeking help for investigative pieces for newspapers and magazines, books, and radio and television documentaries involving corruption, malfeasance, incompetence and societal ills in general, as well as for media criticism.

There is no application form. The applicant must write a letter outlining the story. The letter must be supported by a resume, budget, writing samples, and a commitment from an editor or publisher to consider publishing or broadcasting the final product. The board will meet in July and November and applications should be submitted by the first of the previous month. Contact: Peg Lotitio, Email: fundfij@aol.com

**Applications Sought For Natali Prize Award**

Applications are being received from interested West African print journalists for the Natali Prize for journalism. The prize is awarded by the countries of the European Union, to encourage reporting which recognize the value of human rights and democracy in the fight for fair and just social and economic development.

The Natali Prize was established in honour of the late Lorenzo Natali, vice president of the European Commission with special responsibilities for development issues. The Prize is awarded to print journalists who have demonstrated a striking insight and particular dedication to the reporting of human rights issues within the context of the development process.

For a copy of the application form and rules contact Media For Democracy West Africa, Email: mfdafrica@sentoo.sn, Kabral Blay-Amihere: E-mail: waja@africaonline.com.gh

Application deadline June 1, 2001, and applicants are advised not to submit more than one article for the competition.

**Women's Worlds 2002 Calls For Papers**

Organisers of the 8th International Interdisciplinary Congress on Women scheduled to hold at Makerere University in Kampala, Uganda, from July 21 to 26, 2002, have called for papers from interested speakers. Organisers say the central theme of the conference, which will be an assessment of progress over the past few decades is: "Gendered Worlds, Gains and Challenges."

The goal of the meeting, organisers say, is to promote cross-cultural discussion between academics in many fields and between them and professionals working in organizations concerned with women and gender issues.

This is the first time the Congress would be convened in an African country. It has met every three years, most recently in Norway. Organisers say it chose Uganda for the meeting because of the progress it has made in women's emancipation and gender mainstreaming and for its strong women's movement. The Congress is Being hosted by the Dept. of Women and Gender Studies at Makerere University, the first such department in Africa.

The organisers say it would welcome proposals for full panels, individual papers, or posters/exhibitions and enjoined interested persons to send an abstract, working title, and explanation of the project's relevance to the conference's theme to: The Coordinator, Women's Worlds 2002, Dept. of Women and Gender Studies, Makerere University, P.O. Box 7062, Kampala, Uganda.

Deadline for proposals is June 15, 2001.
"The basis of our government being the opinion of the people, the first object should be to keep that right; and were it ... a government without newspapers, or newspapers without government, I should not hesitate a moment to prefer the latter."

Mr. Thomas Jefferson, 1787