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Media law in the region: Where to from here?



In this chapter you will learn:

- What a bird's-eye view of the countries surveyed reveals about compliance with the:
 - Ten key principles of democratic media regulation
 - Eight key principles of democratic broadcasting regulation
- What international organisations on the continent are doing to promote media freedom
- What key challenges to media freedom remain
- About key instances of internet censorship in the region

1 INTRODUCTION

Chapter 2 (found in Volume 1 of this handbook) examined the internationally accepted hallmarks of democratic media regulation – in other words, the legal regime that establishes a democratic media environment. It identified 13 instruments, charters, protocols or declarations adopted by international bodies (such as the United Nations, the African Union and the Common Market for Eastern and Southern Africa), civil society organisations focusing on the media (such as Article 19), and at significant conferences held under the auspices of international bodies (such as the United Nations Education, Scientific and Cultural Organisation).

The 13 instruments – many of which have a particular focus on Africa – deal with, among other things, various aspects of democratic media regulation. Ten key principles of general democratic media regulation and eight key principles of democratic broadcasting regulation have been identified from these instruments, as is set out more fully in Chapter 2. The principles can be used as a yardstick to assess an individual country's commitment to democratic media and broadcasting regulation and, more broadly, its commitment to the underlying principle of freedom of expression.

The information contained in this concluding chapter is derived from the country-specific chapters featured in volumes 1 and 2 of the handbook.

2 A BIRD’S-EYE VIEW OF COUNTRY COMPLIANCE WITH THE TEN KEY PRINCIPLES OF DEMOCRATIC MEDIA REGULATION

2.1 Principle 1: Freedom of the press and other media

In all the countries surveyed, the right to freedom of expression – the foundational right to a free press – is provided for in the constitution of that country. However, it is important to be aware that the Constitution of Eritrea has never been implemented, so the right to freedom of expression in that country is not of any practical effect. In all but one (Burundi being the exception) of the countries surveyed, namely, Eritrea (although note that the Constitution of Eritrea has never been implemented so the right to freedom of the press in that country is not of any practical effect), Ethiopia, Kenya, Rwanda and Uganda, the constitutions also expressly mention and protect the right to freedom of the press or the media; in some cases generally and, in the case of Kenya, with a particular mention of the electronic media. However, as no right is absolute, it is important to have regard to limitations or restrictions that are imposed on the right to freedom of expression and of the press and other media.

First, where the constitution has never in fact been implemented, as is the case in Eritrea, it is clear that rights to freedom of the press and the media are meaningless.

Second, it is important to have regard to the restrictions or limitations to the right to press freedom. All of these constitutions contain broad limitations clauses (whether these are general limitations clauses or so-called internal limitations clauses that apply only in respect of a particular right) which give their respective governments extensive powers to pass legislation to limit rights to expression and to a free press and other media.

Almost all of the countries surveyed, with the exception of Ethiopia, had constitutions with general limitations clauses therein (again note the non-implementation of the constitution in the case of Eritrea). While broad powers are given in the wide grounds for restricting rights in the general limitations clauses, most of the countries surveyed, namely, Burundi, Eritrea, Kenya and Uganda also had requirements on such general limitations such as necessity, justifiability or proportionality, with the exception being Rwanda. In our view, Burundi, Kenya and Uganda have in force fairly carefully crafted limitations clauses which, in theory, allow for the appropriate limiting of rights.

Besides these generally applicable limitations clauses, half of the countries surveyed also have expression or media rights-specific internal limitations in their constitutions, namely, Ethiopia, Kenya and Rwanda. Of these, Rwanda’s is particularly broadly framed, allowing for a wide range of expression to be limited without falling

foul of the constitutional right to freedom of expression ostensibly provided for. Countries which do not have such internal limitations clauses applicable to the rights to freedom of expression and of the press and other media include Burundi, Eritrea (again note that the constitution has not been implemented) and Uganda.

2.2 Principle 2: Independent media

In terms of an independent media environment, it is clear from the country chapters that practice varies considerably among the different countries surveyed. Both Kenya and Uganda have a number of independent media sources, while Eritrea has no independent media.

With the exception of Eritrea, the countries surveyed do ostensibly recognise the need for independent media sources and for the establishment of independent (commercial or community) print and broadcast media houses, although in a country such as Ethiopia, the independent media, particularly broadcast media, is still in its infancy.

2.3 Principle 3: Diversity and pluralism in the media

Again, it is clear from the country chapters that diversity and pluralism in the media vary significantly among the countries reviewed. Kenya and Uganda have a great deal of diversity and pluralism while Eritrea has no independent broadcasting or print media of any kind, despite the legislation of that country appearing to envisage that independent media can exist.

One of the biggest obstacles to the creation and growth of a diverse media is the registration requirement imposed on the print media. All of the countries surveyed still require newspaper registration. Worse is that all countries (with the exception, it appears, of Ethiopia) also require the registration or accreditation of working journalists. While not legally preventing the functioning of an independent media, these registration mechanisms discourage the development of a thriving pluralistic media environment.

One of the most worrying developments in Eastern Africa is the rise of real constraints upon those who would publish information online. Eritrea, for example, requires that anyone wishing to publish a press product (which is defined broadly enough to include blogs, etc. published online) requires a permit to do so.

2.4 Principle 4: Professional media

There is little doubt that the development of a professional corps of reporters,

investigative journalists and editors has been slow in most of the countries surveyed. Until recently, many of the countries lacked tertiary educational courses or training facilities dedicated to journalism and the media, able to develop journalism as a genuine profession. While this is slowly changing, development is far from uniform.

While Kenya and Uganda have a number of excellent training courses and facilities run by various institutions, including universities and colleges, some countries battle to provide even basic training in journalism skills and ethics, and Burundi has no journalism programmes offered at college and university level.¹ All other countries canvassed offer at least one tertiary level journalism course.²

On a positive note, the establishment of self-regulatory bodies, such as media councils, in most of the countries reviewed (with the notable exceptions being Eritrea and Ethiopia) appears to have had an impact on the professionalisation of the media in those countries.

2.5 Principle 5: Protecting confidentiality of sources

It is interesting to note that Burundi has legislative provisions that actually protect the right of journalists to keep their sources confidential. However, all six countries included in the handbook also have laws that could be used to compel a journalist or media house to reveal confidential sources of information. It is not possible to state that each of these laws is inherently problematic because each case has to be determined on its own merits when considering whether or not forcing a journalist to reveal a source will, in the particular circumstance concerned, violate international standards for such compulsion.

2.6 Principle 6: Access to information

Two of the countries under review – Kenya and Uganda – explicitly protect the right of access to information (as a right separate from the right to freedom of expression) in the constitution.

Constitutional rights of access to information are formulated in different ways:

- The Kenyan Constitution provides that every citizen has the right to access government-held information and to access privately held information where this is required for the exercise or protection of any right or fundamental freedom.
- The Ugandan Constitution provides that every citizen has the right to information

in the possession of the state. It does not grant access to privately held information.

- Eritrea (but note that the constitution is not implemented so the right is effectively meaningless), Ethiopia and Rwanda include the right to access or receive information as part of the constitutional right to freedom of expression.
- Burundi does not have a right of access to information in its constitution.

Besides the constitutional provisions, Ethiopia, Kenya, Rwanda and Uganda have passed some form of access to information legislation.

2.7 Principle 7: Commitment to transparency and accountability

Transparency and accountability are very difficult to measure as these issues are more often than not reflected in a political culture rather than in specific legal provisions. There are, however, a number of legal mechanisms which infer a commitment to accountability and transparency, some of which are dealt with below.

It is important to note that the mere fact that a country has constitutional or other legal provisions regarding accountability measures is not in itself indicative of a genuine political commitment to transparency and/or accountability. A clear way that a commitment to transparency can be determined is from a country's commitment to access to information, as discussed above.

The constitutions of Burundi, Ethiopia, Kenya and Uganda contain general provisions stating a commitment to transparency and/or accountability.

The constitutions of Eritrea (but note that the constitution is not in force), Kenya and Uganda also contain a right to administrative justice, which is a critical right for holding public power accountable.

Further, Kenya has established a Commission on Administrative Justice and the governing legislation specifically provides for remedies for improper administrative action. This legislation aims to force the government to engage in decision-making in a transparent and accountable manner.

While Ethiopia, Rwanda and Uganda have all passed specific whistleblower protection legislation, Kenya has passed a law which contains whistleblower protection mechanisms therein. These kinds of laws are important in combatting corruption and other crimes that hinder transparent and accountable government.

2.8 Principle 8: Commitment to public debate and discussion

A commitment to public debate and discussion is also difficult to measure as these issues are more often than not reflected in the political culture rather than in specific legal provisions. However, legal provisions dealing with freedom of expression, a free press, access to information and the establishment of a genuine public broadcaster, as opposed to a state broadcaster (all issues dealt with elsewhere in the chapter), indicate at least an ostensible commitment to public debate and discussion.

The constitutions of Eritrea (but note this has not been implemented), Kenya and Uganda contain specific provisions promoting public participation in the life of the nation.

2.9 Principle 9: Availability of local content

Local content is available in the countries surveyed. In addition, Ethiopia, Kenya and Rwanda have specific local content requirements for broadcasting services. As all broadcasting in Eritrea is provided by the government, we presume that local content features heavily; but there are no laws or regulations dealing specifically with the issue. We were not provided with any provisions specifically requiring local content in respect of Burundi, while in respect of Uganda, the only local content-related provisions are a general statement in the functions of the state broadcaster and do not appear to apply to all broadcasters.

2.10 Principle 10: Ensuring that states do not use their advertising power to influence content

This principle does not appear to be respected in the countries under review and no statutory mechanisms have been enacted to deal with the problem.

3 A BIRD'S-EYE VIEW OF COUNTRY COMPLIANCE WITH THE EIGHT KEY PRINCIPLES OF DEMOCRATIC BROADCASTING REGULATION

3.1 Principle 1: National frameworks for the regulation of broadcasting must be set down in law

All the countries studied have enacted national frameworks in the form of legislation to regulate broadcasting.

3.2 Principle 2: Independent regulation of broadcasting

Given the increasing levels of convergence between traditional broadcast and tele-

communications infrastructure and services, in terms of which content is available to audiences over a range of platforms, it is not unusual to find ‘converged regulators’ – that is, regulators who are responsible for electronic communications as a whole (and in some instances postal regulation too). This is not contrary to international requirements. What is required, however, is that these converged regulators are independent in terms of appointments and removals processes. Converged regulators should also not be beholden to the executive branch of government. Lastly, they should have the authority to regulate the sector, including granting licences and making regulations, without commercial or government interference.

All but one of the countries surveyed do not have an independent broadcasting or communications sector regulator. Further, in almost all of the countries surveyed, there is no single regulator for the communications or broadcasting sector; so even if one of the bodies appears to be independent in certain respects, the overall regulatory position of the country is that the regulators, taken as a whole, are not independent.

While both Kenya and Burundi make provision for constitutionally mandated media regulation bodies, only the Kenyan Constitution provides for a level of constitutional protection for an independent media standards body. The Media Council in Kenya, which is just one of several regulatory bodies, has a measure of constitutional protection in that it is required to be independent and is generally independent. Indeed, of the countries reviewed, only Kenya can be said to have relatively independent regulation of broadcasting. The Communications Authority of Kenya is:

- Appointed in accordance with a semblance of international best practice, namely: a public nominations process, short-listing by a selection panel (note that this ought to be done by Parliament) and appointment by the president or Cabinet secretary
- Generally able to regulate the sector without executive involvement in licensing and/or making regulations, and has veto powers over regulations made by the Cabinet secretary.

Eritrea’s regulatory position, on the other hand, is extremely poor as the Ministry of Transport and Communications is the only government agency vested with regulatory authority over the communications sector, and broadcasting may be provided only by the government.

3.3 Principle 3: Pluralistic broadcasting environment with a three-tier system for broadcasting: public, commercial and community

Ethiopia, Kenya, Rwanda and Uganda have legislative and/or regulatory environ-

ments that specifically provide for public, commercial and community broadcasting as three separate tiers of available broadcasting services. However, note that in all cases the public broadcaster is, in fact, a state broadcaster.

In Eritrea, only the government may provide broadcasting services and so it does not provide for public, commercial or community broadcasting in its laws.

Burundi also does not provide specifically for the three tiers in law.

3.4 Principle 4: Public as opposed to state broadcasting services

None of the countries reviewed have ‘public’ as opposed to ‘state’ broadcasting services, and no country provides for genuine public broadcasting in legislation.

Eritrea is worthy of particular mention as all broadcasting services are provided by the government.

3.5 Principle 5: Availability of community broadcasting services

Most of the countries reviewed have a legislative and/or regulatory environment that specifically provides for community broadcasting as a separate tier of available broadcasting services, although implementation thereof is uneven.

Eritrea does not allow any broadcasting services other than those provided by the state.

Burundi does not provide for community broadcasting in its legal frameworks and does not appear to have any community broadcasting stations.

3.6 Principle 6: Equitable, fair, transparent and participatory licensing processes, including of frequencies

International best practice requires that broadcasting services and, where these use frequencies, associated frequencies, be licensed by an independent regulatory authority. As already discussed, almost none of the countries surveyed have genuinely independent broadcasting regulatory authorities. Furthermore, the legal environment for licensing in some of the countries studied is problematic. For example:

- In Burundi the minister has the power to approach a court to have a licence granted by the regulator revoked if he or she is of the opinion that the granting of the licence was contrary to law or the public interest.

- In Eritrea, only the government may provide broadcasting services – so effectively no one else can be licensed.

3.7 Principle 7: Universal access to broadcasting services, and equitable access to signal distribution and other infrastructure

Most of the countries included in the handbook have provisions promoting universal access to broadcasting services and equitable access to signal distribution, but the actual realisation of universal access is still far from achieved. One of the biggest reasons for the lack of universal access to broadcasting services is the low level of access to electricity infrastructure. Africa has experienced falling electricity access rates since the 1970s.³ Indeed, of the countries surveyed in this work, the percentage of the population with access to electricity ranged from 6.5% in Burundi to 36.1%⁴ in Eritrea.⁵ Of the countries surveyed, only one country had an electricity access rate of over 30%.

Given that people do not have access to reliable electricity, radio (which can easily be accessed on battery operated devices) still plays a critical role in meeting the communication needs of the populations of the countries surveyed.

3.8 Principle 8: Regulating broadcasting content in the public interest

All the countries surveyed regulate broadcasting-specific content, and many of the restrictions or requirements are in accordance with international norms and standards. However, only a few countries have a commitment to self-regulation of broadcasting content by the broadcasters themselves. Indeed, Kenya is the only country reviewed where a commitment to self-regulation is enshrined in the governing broadcasting legislation.

In addition, many of the countries studied regulate all content (including broadcasting content) in terms of extremely outdated colonial-era legislation, which does not comply with international standards for limiting or prohibiting the right to freedom of expression.

4 WHAT ARE INTERNATIONAL ORGANISATIONS ON THE CONTINENT DOING TO PROMOTE MEDIA FREEDOM?

In 2001, the African Commission on Human and Peoples' Rights (ACHPR) passed Resolution 54 on Freedom of Expression.⁶ The resolution expressed the ACHPR's concern at the widespread violation of the right to freedom of expression by state parties to the African Charter on Human and Peoples' Rights, including through:

- The harassment of journalists
- The victimisation of media houses deemed critical of the establishment
- Inadequate legal frameworks for regulating electronic media, especially broadcasting
- Criminal and civil laws that inhibit the right to freedom of expression.

The ACHPR, in Resolution 54, decided to develop a Declaration on Principles of Freedom of Expression, which it duly adopted⁷ and which is dealt with in detail in Chapter 2 of this handbook.

In 2004, the ACHPR established the Special Rapporteur on Freedom of Expression with a mandate to:⁸

- Analyse national media legislation, policies and practices within member states
- Monitor their compliance with freedom of expression standards and advise member states accordingly
- Undertake investigative missions to member states where reports of massive violations of the right to freedom of expression are made, and make appropriate recommendations to the ACHPR
- Undertake country missions and any other promotional activity that would strengthen the full enjoyment of the right to freedom of expression in Africa
- Make public interventions where violations of the right to freedom of expression have been brought to his or her attention
- Keep a proper record of violations of the right to freedom of expression and publish this in his or her reports submitted to the ACHPR
- Submit reports at each ordinary session of the ACHPR on the status of the enjoyment of the right to freedom of expression in Africa.

In 2010, the ACHPR adopted Resolution 169 on Repealing Criminal Defamation Laws in Africa.⁹ The resolution calls on state parties to, among other things:

- Repeal criminal defamation laws or insult laws which impede freedom of speech,

and to adhere to the provisions of freedom of expression articulated in the African Charter, the Declaration, and other regional and international instruments

- Refrain from imposing general restrictions that are in violation of the right to freedom of expression.

At the time of writing, no country canvassed in this handbook had yet responded directly to the call to repeal criminal defamation or insult laws, which are extremely common on the continent. Indeed, all of the countries surveyed have criminal defamation and/or insult laws.

In May 2013, the Pan African Parliament (PAP) adopted the Midrand Declaration on Press Freedom in Africa,¹⁰ by which the PAP resolved to, among other things:

- Launch a campaign entitled Press Freedom for Development and Governance: Need for Reform in all five regions of Africa
- Establish an annual PAP Award on Media Freedom in Africa for individuals, organisations and member states
- Establish an annual PAP Index on Media Freedom in Africa
- Call upon African Union member states to use the ACHPR Model Law on Access to Information in adopting or reviewing access to information laws.

In 2014, the African Court of Human and Peoples' Rights handed down the Konate judgment,¹¹ in which it ruled that violations of laws on freedom of speech 'cannot be sanctioned by custodial sentences'.¹²

These are exciting developments and are likely to have far greater impact than declarations on press freedom from countries or organisations outside of Africa.

However, the initiatives are relatively new and it will take years, if not decades, to rid a country of laws and practices that are contrary to the right to freedom of expression.

5 WHAT KEY CHALLENGES REMAIN TO MEDIA FREEDOM?

5.1 Introduction – the censorship legacy of colonialism

The PAP, in a statement on its Press Freedom for Development and Governance: Need for Reform campaign, stated that:

The right to freedom of the press is one of the most important human rights. It is indeed an integral part of the right to freedom of expression. It is also seen as one of the cornerstones of democracy. Unfortunately, Africa does not fare very well when it comes to press freedom. In many African countries, authorities have little or no tolerance for press freedom. The media legislation which is in place in many African countries is either inherited from the colonial times, or was instituted by former military and civilian dictatorships to clamp down on criticism and dissenting voices.¹³

This is harsh criticism, but it is not unfair. The *Media Handbook for Eastern Africa* focuses on media law rather than general governmental practice towards journalists and media houses. Such practice has included instances of repression, threats, intimidation, arrest, torture and even murder, as numerous indices on press freedom and alerts from non-governmental organisations that support journalists indicate.

Governments and intergovernmental organisations must begin (as indeed some are starting to) the hard work of creating a genuinely free press across the continent – a press that can and does champion good governance, development and the inherent dignity of African people, as well as the importance of protecting the human rights of each individual African person. But this cannot happen without a wholesale updating of the continent's media laws in every country.

Seven types of media laws are dealt with below, many of which are colonial era laws or, worse, were directly adapted from colonial era laws, and that need to be repealed, amended or updated to enable a professional free African press to flourish for the benefit of all.

5.2 Media registration laws

As has been set out elsewhere in this chapter, media registration laws (whether applicable to publications or journalists) discourage the development of a thriving pluralistic media environment and ought to be abolished. They are purely mechanisms for government control and are not necessary in a democratic country.

All of the countries featured in this handbook still require such publication registration and, with the exception of Ethiopia, also require the registration of working journalists.

5.3 Broadcasting laws

As already discussed, every country surveyed ought to review its broadcasting laws to provide for a:

- Genuinely independent broadcasting regulator (whether or not this regulator also regulates other communications services too), whose members are appointed and removed in accordance with international best practices, and who are free to regulate the sector without commercial or political interference
- Broadcasting regulator that regulates in the public interest
- Broadcasting sector that is made up of three distinct tiers of broadcasting: public, community and commercial broadcasting services
- Genuinely independent public broadcaster whose board members are appointed and removed in accordance with international best practice
- Public broadcaster that provides radio and television broadcasting services in the public interest and which does so without commercial or political interference
- Public broadcaster that provides public broadcasting services in accordance with a public mandate developed by parliament.

5.4 Criminal defamation laws

The issue of criminal defamation has been taken up by the ACHPR. The Commission, in Resolution 169, has requested member states to repeal all criminal defamation laws and the African Court of Human and Peoples' Rights has held that a custodial sentence therefor is inappropriate.

Defamation is an issue that can and should be dealt with as a civil matter. In other words, damages, or in extreme cases prior restraints on publication, can be obtained to deal with the unlawful publication of defamatory material. To criminalise speech – that is, to make defamation a crime punishable by, potentially, stiff prison sentences – has an unjustifiable chilling effect on journalists and media houses across the continent.

Criminal defamation laws should be repealed in their entirety and replaced with a civil action in which the rights to free speech and to dignity and reputation are appropriately balanced.

All of the countries considered in this work still have criminal defamation on the statute books with imprisonment as a potential punishment. This is out of step with the recent critically important ruling by the African Court of Human and Peoples' Rights which held that a custodial sentence therefor is inappropriate.¹⁴

5.5 Insult laws

The issue of insult laws is another that the ACHPR has taken up. In Resolution 169, it has requested member states to repeal all insult laws.

Insult laws are a particular type of law aimed not at defamation in general but at insults or defamation levelled at particular people, usually the head of state, such as the president, but also foreign dignitaries. The publication of material which insults these types of people is criminalised. These laws fundamentally undermine the concept of equality before the law, placing a person, due to his or her political position, above criticism. While there is no doubt that politicians have a right not to be defamed, they have access to ordinary civil remedies to defamation. Furthermore, insult laws are often abused by governments to silence legitimate criticism of political leaders in relation to corruption, cronyism and other barriers to development. Unfortunately, these laws are extremely common on the continent. All of the countries considered in this work still have insult laws on the statute books, with the notable exception of Uganda.

5.6 Obscenity laws

All the countries surveyed have obscenity laws that are extremely outdated and problematic from a freedom of expression point of view. In this regard:

- Control of obscene publications are often simple prohibitions rather than so-called time, manner and place restrictions, which would make certain content available to adults only but during times, and in a manner (opaque packaging for publications, for example) and in particular places (adult shops, for example) that does not impact unduly on the general public
- The grounds for prohibiting publications are often far too wide, allowing for the prohibition of an extremely broad range of material when in fact adults have a right to receive publications of their choice other than those that are clearly harmful, such as child pornography and degrading or inhumane portrayals of explicit sex accompanied by extreme violence.

A revision of these laws is long overdue.

5.7 Sedition laws

International norms on security legislation allow for restrictions on freedom of the press where a country's existence or territorial integrity is actually threatened.

However, some of the countries surveyed, namely Kenya and Uganda, have sedition laws that are overbroad and which do not relate to clear threats to the country itself. Overbroad sedition laws have a chilling effect: they silence legitimate comment or reporting on maladministration, corruption and the like.

It is important to note that a country's sedition laws are often a holdover from their colonial pasts, and a revision of these laws, in line with democratic norms and standards, is long overdue.

5.8 Other security laws

International norms on security legislation allow for restrictions on freedom of the press where a country's existence or territorial integrity is actually threatened. However, many of the countries reviewed have security, public order and terrorism laws that are overbroad and which do not relate to clear threats to the country itself. Furthermore, overbroad security laws have a chilling effect: they silence legitimate comment or reporting on maladministration, corruption and the like.

Every country researched for the handbook has such overbroad security laws, many with exceptionally harsh penalties for publication. It is also important to note that many countries' security laws are a holdover of their colonial pasts, and a revision of these laws, in line with democratic norms and standards, is long overdue.

5.9 Censorship laws

Many of the countries surveyed have an excessively large number of grounds for prohibiting publications: 32 separate grounds in the case of Burundi, 13 separate grounds (but with many additional sub-grounds) in the cases of Eritrea and Ethiopia, 20 separate grounds in the cases of Kenya and Rwanda, and 10 separate grounds in the case of Uganda.

Many of these are governed by the types of laws set out above. The overall impression, however, is of a region that is heavily censored and where censorship is accompanied by harsh criminal penalties. The fact that so many Eastern African countries have a plethora of censorship offences with criminal sanctions ranging from the death penalty to fines is testimony to the overall lack of press freedom that characterises this region.

6 INTERNET CENSORSHIP

One of the most interesting aspects of the overall Eastern Africa environment has

been the development of citizen-journalism through the use of social media, including Twitter, Facebook, YouTube, WhatsApp and other platforms, to communicate with other citizens, the media and the outside world on political developments within these countries. This has been met with repression: in 2016, governments in at least three of the countries featured in this handbook which generally have internet access (Burundi, Ethiopia and Uganda) shut down the whole internet on occasion.¹⁵ This is, of course, in addition to the general non-availability of the internet in Eritrea.¹⁶

7 CONCLUSION

There is no doubt that democracy is taking root in post-independence Africa, and that more and more countries are at least paying lip service to a free press, a pluralistic media environment and the independent regulation of broadcasting; however, much remains to be done, particularly in Eastern Africa which lags behind other African regions with respect to levels of press freedom.

Indeed, two of the six countries featured in this handbook unfortunately also feature in the List of the 10 Most Censored Countries published annually by the Committee to Protect Journalists, namely, Eritrea, which ranks as the most censored country in the world, and Ethiopia, which ranks as the sixth most censored country in the world.¹⁷

Media owners, editors and journalists as well as media activists must use the opportunities that have arisen as a result of the PAP's and the ACHPR's campaigns for media freedom and for the removal of insult and criminal defamation laws. They must challenge these and other laws in court, as well as push for wholesale amendments to pernicious censorship laws that still exist across Eastern Africa and against the government practice of simply shutting down the internet or targeting social media platforms that are used by activists, journalists and others to communicate political information and ideas.

It is perhaps instructive to consider the 2015 Freedom House 'Press Freedom Report: Harsh Laws and Violence Drive Global Decline',¹⁸ in which it gives press freedom ratings for, among other countries, the six countries included in this handbook. Not a single country surveyed in this handbook had a media freedom rating of 'free'. Only two countries, namely Kenya and Uganda, were 'partly free' while the rest were 'not free':

- Burundi – 'not free'
- Eritrea – 'not free'
- Ethiopia – 'not free'
- Kenya – 'partly free'

- Rwanda – ‘not free’
- Uganda – ‘partly free’.

NOTES

- 1 T Skjerdal & Charles M Ngugi, Institutional and governmental challenges for journalism education in East Africa, *African Journalism Studies*, 28 (1&2), 2007, pp 176-189, last accessed 26 October 2016.
- 2 Ibid.
- 3 Martin Zhuwakinyu, Falling African Electricity-Access Levels Could Undermine Growth. Available at: <http://www.engineeringnews.co.za/article/falling-african-electricityaccess-levels-could-undermine-growth-2004-02-13>, last accessed 27 October 2016.
- 4 <http://www.achpr.org/mechanisms/freedom-of-expression/>, last accessed 27 October 2016.
- 5 <http://data.worldbank.org/indicator/EG.ELC.ACCS.ZS>, last accessed 27 October 2016.
- 6 <http://www.achpr.org/sessions/29th/resolutions/54/>, last accessed 27 October 2016.
- 7 <http://www.achpr.org/sessions/32nd/resolutions/62/>, last accessed 27 October 2016.
- 8 <http://www.achpr.org/mechanisms/freedom-of-expression/>, last accessed 27 October 2016.
- 9 <http://www.achpr.org/sessions/48th/resolutions/169/>, last accessed 27 October 2016.
- 10 <http://www.ujuh.co.za/midrand-declaration-on-press-freedom-in-africa/>, last accessed 27 October 2016.
- 11 *Konate v Burkina Faso*, <http://www.ijrcenter.org/wp-content/uploads/2015/02/Konate-Decision-English.pdf>, last accessed 27 October 2016.
- 12 Ibid. At paragraph 165.
- 13 <http://www.polity.org.za/article/pap-statement-by-the-pan-african-parliament-on-world-press-freedom-day-03042011-2011-05-03> last accessed 26 October 2016.
- 14 *Konate v Burkina Faso*, <http://www.ijrcenter.org/wp-content/uploads/2015/02/Konate-Decision-English.pdf>, last accessed 27 October 2016.
- 15 <http://www.bizcommunity.com/Article/410/15/150895.html>, last accessed 30 October 2016.
- 16 <https://cpj.org/2015/04/eritrea-most-censored-country-in-the-world.php>, last accessed 30 October 2016.
- 17 Ibid.
- 18 https://freedomhouse.org/sites/default/files/FreedomofthePress_2015_FINAL.pdf, last accessed 27 October 2016.

