

Joint Report Submission on Freedom of Expression, Media and Right to Information.





This report submitted for the fourth cycle of the UPR by the POS Foundation¹, Reformation of Hope Foundation², Centre for Democratic Development (CDD-Ghana)³, Human Rights Advocacy Centre⁴, Media Foundation for West Africa⁵, Amnesty International, Ghana⁶, Ghana Anti-Corruption Coalition, Ghana Integrity Initiative considers the progress Ghana has made on the issues of Right to Information, Freedom of Expression and Media Freedom in line with the various International and National laws such as Article 21, Article 162 and Right to Information Act 2019 (Act 989).

¹ POS Foundation is a civil society organization in the area of access to justice, criminal justice reforms, right to information and cross-border trade, rule of law and use of technology. (<https://posfoundation.org>)

² Reformation of Hope Foundation

³ CDD-Ghana is a think tank working to advance democracy, good governance, and inclusive economic growth. (<https://cddgh.org/>)

⁴ Human Rights Advocacy Centre is a civil society organization in the area of access to justice and advocacy (<http://www.hracghana.org/>)

⁵ Media Foundation for West Africa is a regional independent non-governmental organization with the biggest and most influential media development and freedom of expression organization in the region (<https://www.mfwa.org/about-us/about-us-mission-and-vision/>)

⁶ Amnesty International, Ghana is an international civil society organization with a unique effective approach for protecting human rights using a three-pronged approach in research, mobilization and advocacy (<https://amnestyghana.org/#work>)

Introduction and Methodology

This report considers the progress of Ghana to date on Freedom of Expression and Right to Information.

1. The submission is prepared in line with Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism. It covers the methodology for the preparation of the submission and measures undertaken by Ghana to entrench democracy, which has implications for human rights, constitutionalism, rule of law and the fight against corruption in the country.
2. The information was further discussed and drafted at a pre-UPR submission workshop in consultation with the UN UPR Civil Society Organization (CSO) Platform (POS Foundation-Secretariat/Convener), which was attended by more than 60 civil society organizations in Accra.
3. ***The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).***
4. ***This report pertains to the progress made by Ghana on right to information and freedom of expression after the 3rd cycle, 2017 to 2022.***
5. Ghana's 1992 Constitution provides for the right to information and freedom of expression in Article 21(1)(f) which provides that all persons shall have the right to information, subject to qualifications and laws that are necessary in a democratic society; and the right to freedom of speech and expression, which includes freedom of the press and other media.
6. Its enactment has helped the country to achieve Sustainable Development Goal 16; Peace Justice and Strong Institutions.
7. Over the past five years, Ghana has had mixed fortunes in terms of freedom of expression with physical attacks, particularly by security agents and arbitrary arrests and detentions of critical journalists and attacks or raids on media houses either by unidentified thugs or security agents have characterised the freedom of expression environment in Ghana.
8. Consequently, Ghana has recorded over 100 freedom of expression violations and accepted recommendation 146.91 in 2017 to adopt a law regarding media freedom but has not complied.
9. Freedom of expression and media freedom are inextricably linked as enshrined in Chapter 5 of the 1992 Constitution which provides for the right to freedom of speech and expression, which extend to the press and other media.
10. In July 2020, the official framework on Police-Media Relations and Safety of Journalists in Ghana was launched. The framework consists of guidelines to ensure the protection and safety of journalists.

11. Despite the above step taken by government to ensure the protection and safety of journalists, media violations have persisted. As a result, Ghana's rank has gradually declined in international freedom index reports.

BACKGROUND

Ghana has accepted recommendations 146.91, 146.45 and 146.47 in 2017 and adopted the Right to Information (RTI) Act in 2019 with the Act taking full effect in January 2020. The Minister of Information supplied figures relating to the progress of the implementation of the Act since its inception in a speech to Parliament. Both individuals and organizations have made use of the Act since January 2020. Institutions abided by the provisions in the Act by not only approving requests, but by also referring and deferring requests. Consequently, Ghana has ratified several international instruments including:

1. The International Covenant on Civil and Political Rights (ICCPR),
2. Optional Protocol to the International Covenant on Civil and Political Rights,
3. The African Charter on Human and Peoples' Rights (ACHPR),
4. The Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights.
5. UN Declaration on Human Rights Defenders

RIGHT TO INFORMATION

1. Ghana adopted the Right to Information (RTI) Act in 2019 and the Act came into full effect in January 2020.
2. However, the RTI Commission which was established to oversee the effective implementation of the RTI law in Ghana is woefully under resourced (financial, logistical and human).
3. In view of this, the Commission is unable to adequately execute their mandate which includes ensuring that public institutions publish their annual manuals, public sensitization, recruitment of information officers among others.
4. Low usage of the RTI Act due to lack of public awareness and understanding. One explanation is that CSO engagement declined after passage of the Act. The government is yet to make efforts to cover the decline in community education and awareness opportunities.
5. The non-passage of the Legislative Instrument (LI) to regulate fees/charges one has to pay when requesting information presents a barrier to accessing information by allowing public institutions to use their discretion in quoting fees.

6. The lack of fees and charges has also been cited as a reason for denying requests for information. Institutions have claimed that since fees cannot be determined in accordance with Section 75 under the Act, the institution cannot grant the request.
7. Lack of public institutions complying with the provision to publish annual manuals in accordance with the RTI Act Section 77.
8. Public institutions are to submit a report every year on the RTI activities of that institution during the preceding year. For the first year of implementation, only 80 institutions complied. This represents 15 percent of all public institutions. For 2021, a total of 189 institutions submitted their annual report to the RTI Commission.

FREEDOM OF EXPRESSION

1. Under Ghana's previous UPR examination, the government received no recommendations on the protection of HRDs, journalists and civil society representatives particularly LGBTQ+ advocates.
2. Article 12 of the UN Declaration on Human Rights Defenders mandates States to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression.
3. However, in spite of these protections, journalists are frequently subject to physical attacks and are frequently assaulted, by state and non-state actors.

MEDIA FREEDOM

1. Article 162(1) guarantees the protection of the freedom and independence of the Media.
2. The constitutional provision in Article 162(2) emphasizes the principle of no censorship.
3. Article 162(3) emphatically states that there shall be no impediments to the creation of private press in particular, there shall be no law requiring any person to obtain a licence as a prerequisite to the establishment or operation of a newspaper, journal or other media for mass communication or information".
4. Article 162(4) provides that editors and publishers of newspapers and other institutions of the mass media shall not be subject to control or interference by Government, nor shall they be penalized or harassed for their editorial opinions and views, or the content of their publications.
5. Article 162(5) states that all agencies of the mass media shall, at all times, be free to uphold the principles, provisions and objectives of this Constitution, and shall uphold the responsibility and accountability of the Government to the people of

Ghana.

Physical Attacks

1. On December 21, 2017, four journalists, covering a protest at the premises of the ruling New Patriotic Party (NPP) headquarters, were brutalized by heavily-built security men of the party. The security persons slapped and kicked the journalists just for covering a protest at the premises of the party headquarters.
2. On March 27, 2018, some police officers brutally assaulted Latif Iddris, a reporter from Joy News, one of the platforms of the Multimedia Group based in Accra. Latif Iddris had gone to cover protests at the Criminal Investigations Department of the Ghana Police Service, where a leading member of Ghana's main opposition party was being held on treason charges. The police officers, numbering about eight, took turns to assault the journalist. One of them hit him in the rib with a stick; another officer used the butt of his gun to hit his head about three times, fracturing his skull.
3. On May 6, 2018, an activist of the ruling New Patriotic Party, Hajia Fati, attacked journalist Ohemaa Sakyiwaa, at the party's headquarters in Accra. The incident followed a trend of attacks on journalists at the ruling party headquarters.
4. On July 19, 2018, some youth of Asawase, a suburb of Kumasi in the Ashanti region beat unconscious a cameraman of GHOne TV, Reynold Dadzie. The journalist was filming a violent demonstration by the youth over police killing seven young men from the community.
5. On March 30, 2022, two soldiers of the Afari Military Hospital assaulted and tortured Michael Aidoo, an investigative journalist conducting an investigation on the project.
6. An investigative journalist Edward Adeti told press freedom organization the Media Foundation for West Africa (MFWA) that he had been receiving threatening messages and noticing suspicious movements since 27 February 2020 while he said that law enforcement agencies informed him of certain criminals planning an attack on him and his family. The journalist believes that the threats are in relation to his recently published investigative video 'Cash for Justice', which claims that a state attorney is implicated in taking bribes. The police reportedly took some security measures to protect Adeti.

Arrests/Detentions

1. On November 14, 2018, a journalist with Okwahu FM, Ebenezer Ofori Agyei, popularly known as Odiasempa, was arrested and kept in police custody for a total of seven days over a news report he had filed to his station. The report featured an audio recording in which drivers in the district accused the police officer of extortion.

2. On November 1, 2021, the police arrested and detained a radio presenter, Paa Kwesi Simpson, on charges of publishing false news. The arrest followed a false kidnapping claim made by a listener who called into Simpson's programme. The journalist was detained for a week during which the police carried out their investigations.
3. On February 9, 2022, the Executive Director of an anti-corruption organization, Alliance of Social Equity and Public Accountability (ASEPA) was arrested by the police. He had published and later retracted allegations that members of the President's family travelled by the Presidential jet to the UK for shopping.
4. On February 10, 2022, the police detained Kwabena Bobbie Ansah, a presenter at *Accra FM*, on a charge of "publication of false news and offensive conduct." The charges relate to a video the journalist posted on social media claiming that President Nana Akufo-Addo's wife had illegally obtained a parcel of state land.
5. On 11 May 2021, National Security officers arrested Citi News journalist Caleb Kudah in front of the Ministry of National Security offices on accusations of filming in a restricted security zone. Kudah was taken to a local police station where he was reportedly beaten and the pictures erased from his phone. Subsequently seven-armed security officers stormed the media outlet's offices in an attempt to arrest another journalist, Zoe Abu-Baidoo, whom was accused of having received the video files from Kudah. Both journalists were released, with Caleb Kudah having been subjected to interrogation.
6. On 3 February 2022, radio broadcaster for Connect FM, Eric Nana Gyetuah, was assaulted by police officers in Takoradi, Western Region, after they noticed the journalist filming them in a restaurant, while reportedly bringing arrested individuals in handcuffs with them. The beating reportedly started after the journalist refused to hand over his phone. Gyetuah was further handcuffed, brought to a police station and detained for several hours on accusations of unlawfully taking pictures and public order charges before being released four hours later.

Killing

1. Investigative reporter Ahmed Hussain-Suale Divela, who worked for Tiger Eye Private Investigations, was shot and died on January 16, 2019, while returning home in Accra, in a violent attack.
2. Prior to his murder, Hussain-Suale Divela was involved in the documentary "Number 12" on alleged football corruption which ultimately led to the dissolution of the Ghana Football Association (GFA) and a lifetime FIFA ban on GFA's former president, Kwesi Nyantakyi.

3. Consequently, a Member of Parliament, Kennedy Agyapong of the ruling New Patriotic Party revealed his identity on his national television network Net2 TV after publicly threatening him and inciting public violence against him.
4. Prior to his death, the journalist told press freedom organisation Committee to Protect Journalists that he had received numerous death threats after his identity was disclosed.

Attacks on media houses

1. On June 27, 2019, some National Security Operatives raided the offices of ModernGhana.com. They seized laptops from the media organization and arrested the deputy editor, Emmanuel Ajarfor Abugri, as well as Emmanuel Yeboah Britwum, a reporter.
2. The two journalists were held in an undisclosed location for three days, with one of them reporting that he was tortured. The action was linked to a critical article the news website published about the National Security Minister, Albert Kan Dapaah.
3. On January 13, 2022, a group of thugs numbering about 12 stormed the premises of the community radio station, Ada Radio, assaulted two of its journalists and vandalized equipment.
4. On May 16, 2022, three burly men on motor bicycles burst into the premises of Radio Benya in Elmina, Central Region of Ghana, and assaulted a presenter and his producer. The station was airing a programme focused on the problems associated with the fishing industry when it came under attack. The rampaging thugs kicked, slapped and pummeled their victims and destroyed equipment including computers, mixers and microphones.

Sentencing/Jailing

1. There have been several incidents of arbitrary arrests and prosecution of journalists in Ghana, using legislation such as the Public Order Act, the 2008 Electronic Communication Act and the 1960 Criminal and Other Offences Act (Act 29).
2. This is despite the repeal of the criminal libel and seditious libel laws decades ago.
3. On February 8, 2022, a High Court in Accra sentenced a broadcast journalist with Accra-based Power FM, Oheneba Boamah Bennie, to 14 days in prison after he was found guilty of contempt of court.
4. The journalist was dragged to the High Court by Ghana's Attorney General after he posted a Facebook video containing allegations that President Nana Akufo-Addo was influencing judges sitting on a petition by the opposition against his 2020 presidential election victory.

RECOMMENDATIONS ON RTI AND FREEDOM OF EXPRESSION

RECOMMENDATION ON RIGHT TO INFORMATION

The State party should:

1. Pass the Legislative Instrument to regulate the fees and charges for requests for information as required under Section 75 of the RTI Act;
2. Communicate their action plan on the nationwide education of RTI and the specific programmes in place to cater to the disadvantaged and minority in the society;
3. Strengthen and well-resource the RTI Commission to sanction any public institution that does not submit an annual report in compliance with Section 77 of the RTI Act.
4. The RTI Commission must assert its independence from governmental control as such a body needs to engage with the public to boost public confidence in it.

RECOMMENDATION ON FREEDOM OF EXPRESSION/MEDIA FREEDOM

1. End impunity for crimes against journalists by conducting a thorough and independent investigations into the death of Ahmed Hussein Suale.
2. Put in place measures to prevent attacks on journalists and where attacks occur, investigate in a thorough and transparent manner, ensure that perpetrators are held accountable, and that victims have access to adequate remedies.
3. Promote the safety and protection of journalists and media organisations by establishing a National Mechanism on Safety of Journalists in line with UNESCO's Action Plan on the Safety of Journalists.
4. Amend relevant laws that criminalise speech so that the protection of privacy and reputation does not involve the use of Criminal sanctions, and instead, remains in the domain of common law for civil remedies to be pursued.
5. Ensure state security agents and officials put a stop to attacks, arrests and intimidation of people, including critical journalists, civil society actors, human rights defenders, activists, political opponents for the exercise of their freedom of expression rights both offline and online.
6. Implementation of Journalist and police framework for safety of journalists
7. Continuous training and capacity building of security officers (police/military) for dealing with media rights and respect for human rights.
8. Adopt legislation regarding freedom of the media (to extend to opposition sources).
9. Freedom of the media needs to also address the prevalence of state/politician owned media sources.

10. Develop an action plan to ensure that internet laws comply with the government's commitment to guarantee the freedom of expression, media freedom and access to information, including by ensuring free access to electronic media, ceasing censorship and surveillance liberalising electronic media ownership rules and enabling journalists, bloggers, and other internet users to play a full and active role in promoting and protecting human rights.
11. Enable unfettered access to online information resources by removing restrictions on access to domestic and international news websites, social media platforms and CSO websites.