

UPR FOE LIBERIA REPORT

The 1986 constitution of Liberia explicitly protects freedom of expression. Article 15 states “Every person shall have the right to freedom of expression, being fully responsible for the abuse thereof. This right shall not be curtailed, restricted or enjoined by government save during an emergency declared in accordance with this Constitution.”

It is further qualified under sub section b: “The right encompasses the right to hold opinions without interference and the right to knowledge. It includes freedom of speech and of the press, academic freedom to receive and impart knowledge and information and the right of libraries to make such knowledge available. It includes non-interference with the use of the mail, telephone and telegraph. It likewise includes the right to remain silent.”

Subsection c of the referenced Article 15 makes an even stronger case for freedom of expression: “In pursuance of this right, there shall be no limitation on the public right to be informed about the government and its functionaries.”

Subsection d adds: Access to state owned media shall not be denied because of any disagreement with or dislike of the ideas expressed. Denial of such access may be challenged in a court of competent jurisdiction.

However sub e section makes the IMPORTANT caveat: This freedom may be limited only by judicial action in proceedings grounded in defamation or invasion of the rights of privacy and publicity or in the commercial aspect of expression in deception, false advertising and copyright infringement.

It therefore follows that even as there are sufficient provisions that protect freedom of expression there exists inherent safeguards to insulate against the abuse of that right. It is actually about rights and responsibilities which make room for regulation that has become subject of debates as to whether the state should take on that responsibility, but stakeholders are working on a draft model of a regulatory framework that will be all encompassing of state and non-state actors in composition.

The Press Freedom Act Freedom of expression has continued to be protected in further legislation by the new government of President George Weah, by passing the Kamara Abdullai Kamara Press Freedom Act (2019). The Act governs freedom of expression and press freedom in Liberia. It repealed the penal law of 1978, abolishing criminal libel, sedition and defamation. Many observers say the Press Freedom Act has made an “outstanding” impression on the country’s effort in protecting civil liberties.

The K. Abdullai Kamara Press Freedom Act repealed three specific laws that were inconsistent with Freedom of Expression. These were contained in the penal Law of 1978 namely: section 11.11 Criminal Libel against the President; section 11.12 sedition and section 11.14 Criminal Malevolence.

The repeal of these penal codes is healthy and progressive. But following the passage of the law there was an instance when President Weah made a pronouncement to the effect of going after those who are insulting him on social media. The target of the comment was opposition lawmaker Yekeh Koluba, He was noted for vitriolic comments bordering on political corruption and accused the president of having stolen a container load of billions of Liberian dollars. The home of the lawmaker was subsequently stormed by state security operatives who conducted a search for purported subversive materials that were not found.

The scenario cited above provides an insight into the available subtle or extra judicial recourse at the disposal of the state in suppressing freedom of expression.

Violations to Freedom of Expression

Violations to Freedom of expression occurred after the Press Freedom Act was passed, critical radio station Roots FM was shuttered, and its host, Henry Costa, organized mass protest, stirring a public debate about the sincerity of the government in countenancing critical voices.

Social Media

Two women officials from the Ministries of Gender and Foreign Affairs have been sacked for their comments on Facebook. The incident led to award winning journalists and the publisher of Frontpage Africa newspaper, Rodney Sieh, to write the CEO of Facebook Mark Zuckerberg about “the alarming trend of recklessness seeping into the new media platform using falsehood and deceptive tricks.”

Last year a joint press release from the Africa Union, European Union and ECOWAS missions in Liberia warned about the misuse of social media with potentials of stirring dissension in the country, warnings that comments inciting violence becoming commonplace is worrisome. Legislation that insulates against criminal liability for speech and media offenses is insufficient, especially when the application of it is inconsistent. Although no journalists are in jail because of this law, it’s clear that the state still wields options to clamp down on critical views using civil law and other repressive tactics. Journalists can be sued for their work, and fines can be imposed leading to closure of the newspaper if the fine is not paid. For example, the former PUL Vice President Octavian Williams versus Lebanese business magnate Fawaz who claimed damages for alleged libelous publication. The matter is still in court.

Civil Society and Reforms

Media stakeholders on February 7th met in Monrovia under the auspices of the Center for Media Studies and Peacebuilding project called, Strengthening Freedom of Expression through a Regulatory Environment. With support from the British Embassy, the aim of the project is to advance outstanding reforms. Stakeholders insisted that freedom of expression must be underpinned by responsibility. It is necessary to address the increasing ethical infractions by the Press Union of Liberia as an effort in self-regulation has failed to win public confidence because decisions handed down by the commission are hardly complied with by defaulting journalists. During the meeting it was decided that a bill to legislate an Independent Media Commission will

be put together by a working group. Already some lawmakers have pledged to champion and support such a bill when drafted. The concerns are still there, including what media actors and outlets should be regulated.

The controversial talk show host Henry Costa who fled the country when the state declared him wanted for organizing strings of protests using social media as an alternative to the radio equipment seizure had refused to be subjected to ethical codes of the Press Union of Liberia. Costa says he is not a journalist but rather a political and social commentator. Before his station was shut down he was engaged in an airwaves warfare with a pro government radio station owned by the Deputy Director of Investigation at the National Security Agency Sam Sayon.

The air waves war of words between opposition and pro-government radio stations Roots FM and Freedom FM last year aroused the annoyance of the Press Union of Liberia to have issued a press release that called on the government to institute measures in curtailing the rant style broadcast akin to hate messaging. <http://www.pul.org.lr/content.php?sub=88&mi=1>

The action of the PUL was apparently a manifestation of the inefficiency of its Independent Media Council, a multi stakeholder's arrangement, to promote ethical compliance and professional standards in the media. The incident sparked debate in media development circles about the appropriateness of the decision of the Press Union of Liberia in somewhat calling for a clampdown on freedom of expression.

It is too early to discuss the content of the proposed independent media regulation bill but the suggestion of ceding some powers from some entities and transfer of some functions to the proposed media commission has been highlighted in ongoing conversations. Such powers to be ceded or not may include: the registration of media houses currently under the ambit of the Ministry of Information Culture and Tourism; the allocation of spectrum to broadcast media which is under the Liberia Telecommunications Authority.

In the intention of those working on the proposed Independent Media Commission bill, there is a possibility to subsume under the media commission the pending Independent Broadcast Regulator bill -submitted to the legislature since 2004 among other outstanding raft of media reform bills. The Liberia Law Reform Commission has made a commitment to provide technical backstop to the media stakeholders working on the draft bill that is envisaged to minimize media litigations and other forms of clamp down on freedom of expression.