

AFRICA COVID BRIEFER

Freedom of Assembly and Expression

Issue Overview

During the first half of 2021, government measures to curtail the spread of the COVID-19 pandemic continued to interfere with civic freedoms, including freedom of assembly, expression, and the media. In some cases, governments cracked down on criticism and coverage of their management of the pandemic, and in others, protests and political gatherings were restricted under the pretext of COVID-19 measures. The below information covers examples of these restrictions:

Country Examples

FREEDOM OF EXPRESSION AND MEDIA

On April 22, 2021, citing the state of emergency, authorities in **Madagascar** suspended nine TV and radio programs over their coverage of a second wave of coronavirus cases under the pretext that they were “likely to disturb public order and security and undermine national unity.” Four days later, some of the suspended programs were allowed to resume broadcasting after signing a pledge not to “include any incitement that could harm national unity, disturbance of public order, or incitement to revolt,” following a meeting between the communication minister and representatives of some of the concerned media outlets.

In **Zimbabwe**, police arrested journalist Hopewell Chin’ono on January 8, 2021, for tweeting that police killed a baby while enforcing COVID-19 lockdown. Two opposition politicians, Job Sikhala and Fadzai Mahere, were arrested on January 9 and 11, 2021, respectively, for tweeting about the same incident. The three were charged with “communicating falsehoods” under Section 31(a)(iii) of the Criminal law code. On April 28, 2021, the High Court terminated the charges against Chin’ono on the grounds that the law under which he was charged was invalid.

On April 6, 2021, **Kenyan** activist Edwin Mutemi wa Kiama was arrested by police for joining the #IMFStopLoaningKenya campaign on Twitter in response to IMF’s loan (of approx. \$2.3bn) to support the country’s pandemic response and economic reforms. He was released on bail a few days later and ordered to pay 500,000 Kenyan shillings

cash bail (approx. \$4,500), in addition to refraining from using his social media accounts or criticizing government COVID-19 loans.

On March 8, 2021, **Uganda** President Yoweri Museveni threatened to sue and "bankrupt" local newspaper Daily Monitor for citing a Wall Street Journal report alleging that his "inner circle" received Chinese vaccines ahead of others in the country. Speaking at International Women's Day celebrations, President Museveni threatened to push the newspaper into bankruptcy unless the journalists "apologise and lie down and say sorry."¹

RIGHT TO PROTEST AND ASSEMBLY

On January 27, 2021, police in **Guinea Bissau** used tear gas to disperse students and citizens protesting against closure of schools as part of measures to control the spread of COVID-19. Police also assaulted and detained a civil society activist and a journalist covering the protest for hours before releasing them. Civil society organizations have demanded an immediate investigation into this matter.

On March 27, 2021, **Zimbabwean** police disrupted a meeting held by the opposition MDC Alliance and arrested three of its members, Emmanuel Chinanzvavana, Aldini Wairesi, and Daniel Hove. They were charged with violating section 5(3)(a) of the Public Health COVID-19 Prevention, Containment, Treatment (National, Lockdown) Consolidation, Containment Amendment Order 2020 after they convened a gathering of about 100 people.² The regulations at the time banned gatherings of more than two people, except at funerals, religious services, and to attend parliamentary committee hearings. The gathering was an internal executive meeting of the Zvimba North MDC Alliance constituency coordinating committee held at the residence of one MDC's members. The trio were initially granted bail but later remanded on June 23, 2021, pending court hearing.

Regional Norms

The African Commission on Human and People's Rights 449 Resolution, which focuses on ensuring human rights are a central part of COVID responses, outlines norms for adopting and enforcing COVID-19 measures:

- **Article 1** "Calls on States Parties to ensure, in respect to the right to health and life under Articles 16 and 4 of the African Charter, that:

¹ <https://www.facebook.com/watch/?v=199143311988313>

² According to the measures in place when the arrest happened, such gatherings are not allowed. "people are not allowed to assemble in public places in groups of more than two, except when allowed by the Lockdown Order." Exceptions include: 1) funerals: up to 30 people can attend, 2) Religious services: Up to 50 people can attend, 3) Parliamentary committee hearings: Up to 100 people can attend. <https://www.veritaszim.net/node/4822>

- They prioritize the use of measured public health measures including mandatory wearing of masks, installing hand washing/sanitizing stalls in public places, disinfecting public spaces, holding of gatherings in an open space, observing social distancing when engaging in economic activities;”
- **Article 2** “Urges States Parties in respect of enforcement of COVID-19 regulations to ensure that:
 - The response of Law Enforcement and Public Security Forces to States of Emergency during the COVID-19 pandemic are consistent with the principles of legality, necessity, proportionality, accountability and do not endanger human life...
 - Ensure that the measures adopted by State Parties meet the minimum standards for the protection of human rights and are accompanied by policy measures adapted in order to mitigate negative effects, particularly in the most vulnerable sector of society...
 - Mechanisms are in place for independent, prompt, impartial and transparent investigations of all allegations of excessive use of force, extrajudicial killings, inhuman treatment, assault or arbitrary deprivation of liberty, gender-based violence, or extortion by members of law enforcement institutions and for holding perpetrators of violations accountable;
 - Those whose rights have been violated by members of law enforcement institutions are granted access to remedies, including reparation and compensation;”
- **Article 4** “Further calls on States within the framework of Articles 7 and 26 of the African Charter:
 - To ensure that there exist mechanisms for accountability and access to justice in the face of possible violations of human and peoples’ rights;
 - To ensure that the right to due process of the law are fully complied with;
 - To use detention as a measure of enforcing COVID-19 regulations and pre-trial detention as a measure of last resort to avoid congestion and spread of the virus in places of detention;
 - To make special arrangements for enabling the judiciary to continue dispensing with justice with particular attention to issues of rights violations in the context of the pandemic and for enabling individuals

or affected communities to receive legal assistance from civil society organizations and human rights defenders;”

- **Article 5** “Reminds States Parties of the necessity of observing the principles of non-discrimination under Article 2 of the African Charter, and to this end urges them:
 - To ensure that COVID-19 response measures are applied in strict compliance with the principle of equality before the law and mechanisms are put in place for preventing and remedying abusive and discriminatory applications of pandemic regulation measures;”
- **Article 7** “Urges States Parties to guarantee, within the framework of Article 9 of the African Charter:
 - Unhindered access to and regular provision of public health information on the pandemic and the precautionary safety measures that should be followed, including through local languages...
 - That the application of penal law for breach of regulations on misinformation is restricted to cases that are capable of causing damage to public health and are not used to stifle freedom of expression, the press and access to information;
 - The unrestricted operation of journalists and free press and media as essential public services in the context of social distancing for access to information including about the pandemic;
 - No full or partial blocking of media outlets without due process of the law and for clearly and objectively established grounds laid down in laws that are in accord with freedom of expression and media and internet access without interruption;”