The Midrand Call to Action Document: Media Freedom and Public Broadcasting in Africa

Adopted at the Continental Conference on Media Legislative Reforms and Transforming State Broadcasters into Public Broadcasters in Africa, held in Midrand, South Africa on 2-3 December 2013 hosted by the Pan-African Parliament (PAP), the Africa Governance Monitoring and Advocacy Project (AfriMAP), the Open Society Initiative of Southern Africa (OSISA), Article 19 and the Media Institute of Southern Africa (MISA);

Recalling the Midrand Declaration on Press Freedom in Africa adopted by the Pan-African Parliament on 15 May 2013;

Considering international treaties to which African States are parties, including the International Covenant on Civil and Political Rights, as well as treaties adopted by the African Union, including the African Charter on Human and Peoples' Rights, the African Charter on Democracy, Elections and Governance, the African Charter on Principles of Public Service and Administration, which all guarantee freedom of expression and the media, the right to disseminate and access information and the right to public participation;

Inspired by the Declaration of Principles on Freedom of Expression in Africa (2002) adopted by the African Commission on Human and Peoples' Rights, which promotes freedom of expression, independence of broadcasting, the transformation of state and government controlled broadcasters into public service broadcasters, community broadcasting and measures to avoid undue concentration of media ownership;

Remembering the Windhoek Declaration on Promoting an Independent and Pluralistic African Press (adopted by UNESCO in 1991) and the African Charter on Broadcasting (adopted by African journalists and media organisations in 2001) which promote an independent and pluralistic African press and the independence of broadcasting in Africa;

Noting the resolution of the Pan-African Parliament of October 2012 which encourages AU Member States to adopt the Model Law on Access to Information drafted by the African Commission on Human and Peoples' Rights and the Declaration on the African Platform on Access to Information 2011.

Acknowledging discussions at the 2nd Annual High Level Dialogue of the African Union on Governance and Democracy in Africa: Trends, Challenges and Prospects, held in

Dakar from 25-27 November 2013, referring to media coverage and elections;

Regretting that since the turn of the century the building of democratic institutions in many parts of Africa, and with it the promotion of freedom of expression, has been stagnating, or even regressing, and governments have not lived up to the expectations created by the above documents;

Noting in particular that

- most 'public' broadcasters in Africa are still government-controlled state broadcasters, due to the lack of political will on the part of governments,

- the authorities that regulate broadcasting are insufficiently independent of government in many countries, and that governments therefore retain control over all sectors of broadcasting,

- community broadcasting is still insufficiently defined and supported through legislation in most countries,

- cross-ownership of media and media concentration is increasing in many countries as well as lack of transparency about media ownership;

- reform of media-related legislation in line with relevant international and African standards in general takes place at a very slow pace due to a lack of political will, so that repressive provisions remain on the statute books;

Observing *with serious concern* that all broadcasting sectors and their audiences are adversely affected by the slow pace of transition from analogue to digital broadcasting in most countries;

Appreciating that the media landscape in Africa is increasingly (but insufficiently) diverse and open, thanks to the courage and commitment of journalists and communication activists and the increasing determination of citizens to claim their right to know and make their voices heard, and seeking to strengthen that commitment and amplify their voices; and

Recognising that after the initial enthusiasm for media reforms in the 1990's a feeling of resignation now prevails among media and civil society that threatens to stifle further progress and that it is essential to revitalise the spirit and activities for meaningful reforms of broadcasting and general media legislation in Africa:

The African Union should

encourage states to sign and ratify, and assist them to implement the African Charter on Democracy, Elections and Governance by including principles relating to media freedom and the independence of broadcast media in the benchmarks to be developed for implementation of the commitments and principles of the Charter, and in particular by urging Member States to
- "nurture, support and consolidate good governance by promoting democratic culture and practice" and "promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs";
- facilitate "effective participation of citizens in democratic and development processes and in governance of public affairs";
- promote "freedom of expression, in particular freedom of the press and fostering a professional media";
- ensure fair and equitable access by contesting parties and candidates to state controlled media during elections;
- support the PAP's campaign on "Press Freedom for Development and Governance: Need for Reform"; and
- task its relevant bodies to prioritise monitoring the digital transformation policies and processes in the respective countries.

The Pan-African Parliament should

intensify its campaign on "Press Freedom for Development and Governance: Need for Reform" (adopted during the First Ordinary Session of the Third Parliament in October 2012) by

- establishing a working group including members of civil society media organisations to engage African governments and institutions to remove restrictive media legislation and promote media freedom and universal access to the information on the continent;

- promoting the transformation of state broadcasters into public service broadcasters as defined by the Declaration of Principles on Freedom of Expression in Africa;

- promoting the review of broadcasting regulation, using as a benchmark the Declaration of Principles on Freedom of Expression in Africa;

- lobbying for the amendment or repeal of laws that restrict freedom of the media, including the internet, in many African countries, based on the Declaration that says that "any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary in a democratic society", and giving special attention to legislation

- that makes defamation/libel a criminal offence (all such legislation must be repealed and matters of defamation and libel should only be dealt with under civil law)
  - on insult law
  - on sedition and so-called "false news/information"
  - on official secrets, and
  - on statutory regulation of the media
- continuing to encourage AU Member States to adopt and implement the Model Law on Access to Information drafted by the African Commission on Human and Peoples' Rights (ACHPR) in accordance with the Declaration of Principles on Freedom of Expression in Africa;

- urgently call on governments to develop national policies and implementation plans on digital migration where this has not yet been done; and to provide reports on progress made; and

- working with non-state actors, including civil society and the private sector, to ensure that the objectives articulated in this Call to Action are shifted from rhetoric to reality.

The African Commission on Human and Peoples' Rights should

- pay special attention to media freedom and broadcasting regulation in its examination of state reports;
- work closely with civil society to identify countries of concern in relation to media freedom and government control of broadcasting and mandate its Special Rapporteur on Freedom of Expression and Access to Information to visit those prioritised in order to promote respect for the Declaration of Principles on Freedom of Expression in Africa;
- make the transformation of state to public broadcasting one of its key priorities; and
- develop mechanisms to follow up compliance by countries to the Commission's resolutions dealing with freedom of expression issues.

The African Peer Review Mechanism should

- include the promotion of a free and independent media and broadcasting regulation as criteria for the assessment of good governance within its review of countries; and
- include assessment of the state of readiness for digital migration in the criteria.

National parliaments should

- review, amend or repeal, through their relevant portfolio committees, media related legislation as well as laws with an impact on freedom of expression in conjunction with government, media and civil society, acknowledging that "any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary in a democratic society" as indicated by the Declaration of Principles on Freedom of Expression in Africa;
- ratify and domesticate continental, regional and sub-regional instruments relevant to the mission of independent public broadcasters into the national laws of their countries - these include the African Charter on Democracy, Elections and Governance and the African Charter on Values and Principles of Public Service and Administration;
- repeal or amend any acts, regulations or policies that inhibit the transformation of state broadcasters into independent public broadcasters to protect them from political and other forms of undue interference, in line with standards set by the Declaration of Principles on Freedom of Expression in Africa;
- spearhead legislation that will transform state broadcasters into public broadcasters and establish independent regulators for broadcasting;
- initiate legislation on access to information;
- exercise their oversight role over digital transformation processes and policies to ensure they are citizen-oriented, transparent, corruption free, and subjected to inclusive public debate;
- develop with all stakeholders a funding model for public broadcasting that provides sustainable resources without impeding on the independence of public broadcasters; and
- ensure the safety of journalists in line with the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.

National governments should

- develop or amend legislation for a coherent and well-defined three-tier system of broadcasting (public, commercial and community), if this is not already in place;
- develop, in consultation with all stakeholders (broadcasters, signal distributors and civil society), national policies on digital migration which should encompass all social, cultural, technological and financial aspects;
- ensure that public broadcast media is allotted sufficient spectrum on the multiplexes; and
- provide all citizens with affordable access to the public broadcaster by expanding their transmission networks.

- ensure safety of journalists

National public broadcasters should

- develop through an inclusive public process editorial and programme guidelines that adhere to public broadcasting principles and promote public interest programming;
- develop a code of conduct to ensure professionalism, accuracy, fairness, balance and inclusiveness in reporting;
- offer a platform for unbiased information, diversity of opinion and democratic debate, which is not skewed towards any partisan interest and promotes a diversity of sources;
- be prepared for the digital migration and increase their production capacities and promote independent production; and
- ensure gender equality in and through public broadcasting;
- promote human and socio-economic rights and dignity for all, in particular those of marginalised communities;
- develop an effective internal complaints mechanism where citizens can express their concerns about content they find unacceptable;
- use digital technologies to promote broader access and public participation in the development of editorial policies; and
- avail to all staff members, management and board members training on public broadcasting in order to appreciate its mandate and to ensure that their mindsets and skills are geared to professional standards.

National civil society and media advocacy groups should

- form and/or strengthen coalitions, which include all sectors of society, for the reform of the media environment and broadcasting in particular;
- draw up reports on existing laws that hinder the transformation of state broadcasters into truly public broadcasters, and propose legal amendments and/or entirely new legislation;
- collaborate with parliamentarians on media reform efforts;
- conduct publicity and awareness campaigns on public broadcasting and how it differs from that offered by the current state broadcaster, commercial broadcasters and the upcoming multitude of digital channels;
- cover – especially in the case of national human rights organisations – broadcasting and media issues in their shadow reports for the African Commission for Human and Peoples' Rights;
- form partnerships to engage in the digitalisation processes in their respective countries and elevate the lessons learned to regional and continental levels; and
- require from political parties information about their national media policies.

ADOPTED BY:

- The Pan African Parliament- Justice and Human Rights Committee
- AfriMAP
- Article 19
- MISA- Media Institute of Southern Africa
- CAMRI- The Communication and Media Research Institute
- CNRA-Conseil National de regulation de l'audiovisuel
- Department of Communication Science, UNISA
- The Electoral Institute for Sustainable Democracy in Africa-EISA
- The West Africa Network for Peace building
- FAJ- Federation of African Journalists
- FES- Friedrich-Ebert-Stiftung Africa Media
- Guinea National Television
- GVC Media
- IFJ-International Federation of Journalists
- Kenya 107 Action Network
- Lesotho Union of Journalists
- MCM Digital Media
- Media Foundation for West Africa
- Media Legal Defense Initiative
- Open Society Media Program
- Open Society Foundation-SA
- Open Society Initiative for Sothern Africa
- Open Society Justice Initiative
- R2K-Right to Know Campaign
- South Africa Editors' Forum
- South African Institute of International Affairs
- Southern Africa Journalist Association
- SOS Coalition- South Africa
- Uganda Journalist Association
- Uganda Parliamentary Press Association
- UNESCO
- University of Maiduguri-Communications Department-Nigeria
- WANEP- The West Africa Network for Peace building