

Shrinking Civil Society Space

Section 22 of the Nigerian Constitution (1999) stipulates that “the press, radio, television and other agencies of mass media shall at all times be free to uphold the fundamental objectives contained in this chapter and uphold the responsibility and accountability of the government to the people.”

However, the ruling All Progressives Congress (APC), which had availed itself of social media extremely effectively, and without facing official restrictions, in the run up to its electoral victory embarked almost immediately on [efforts to control the media](#). Consequently, since 2016 Nigeria has experienced a progressive squeezing of civil society space characterised, amongst other things, by mounting suppression of the freedoms of expression and the press. A July 2021 [study](#) of press freedom since 2016 uncovered 300 violations affecting around 500 journalists, media workers, and media houses, and the deaths of eight journalists, for which no one has been held accountable.

Nigeria now ranks 120th out of the 180 countries in the Reporters Without Borders (RSF) [World Press Freedom Index](#), with frequent restrictions on the freedoms of expression and the press designed to offset accountability or criticism - no matter how mild. Bloggers, online and print journalists and human rights defenders who question state or federal governments or espouse differing views, have been targeted, harassed, forcibly disappeared, detained arbitrarily, and in some instances, assaulted by security operatives seemingly at the bidding, or with the tacit agreement, of state or federal authorities.

Current Case: Luka Binniyat

Luka Binniyat, a journalist and spokesperson for the Southern Kaduna Peoples Union (SOKAPU), has been detained arbitrarily in the Kaduna Maximum Custodial Centre in central Nigeria since November 2021.

Mr Binniyat was arrested on 4 November 2021 at SOKAPU's offices by members of the Kaduna State Investigation Bureau, who were reportedly acting on a complaint by Samuel Aruwan, the Kaduna state Commissioner for Internal Security. He was detained in connection with an article he had written in October 2021 for [the Epoch Times](#), an online newspaper based in the United States. In the article, he had criticised the government's lacklustre response to [attacks](#) on communities in three Local Government Areas (LGAs) of southern Kaduna which occurred in September, and in which at least 49 people died and 27 were abducted.

Mr Binniyat was initially held in Gabasawa Police Station. On 8 November 2021 he was taken to the Barnawa Magistrate Court in handcuffs, where police filed charges against him under Section 24 (b) of the Cybercrimes Act, which criminalises the use of computers or other devices to transmit information that the sender “knows to be false, for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity,

hatred, ill will or needless anxiety to another or causes such a message to be sent.” If convicted, he could face “a fine of not more than N7,000,000.00 [US\$17,049] or imprisonment for a term of not more than 3 years or to both such fine and imprisonment.”

During a hearing on 9 November 2021, an application for bail was made, and the magistrate adjourned to the court until 10 November 2021 for a ruling. Also on 9 November 2021, Mr Aruwan issued a [statement](#) in which he alleged he had been defamed and he and his family were endangered and opened to public ridicule by the Epoch Times article, specifically in a quote attributed to Senator Danjuma La'ah, who represents Kaduna South in Nigeria's National Assembly, and who had subsequently denied having made the comment.

When Mr Binniyat returned to court on 10 November 2021, his request for bail was denied, and he was transferred to the maximum security prison.

On 22 November 2021, Mr Binniyat was brought to court, but the judge did not attend, and he was obliged to spend the night in Kakuri Police Station. During a hearing which took place the next day, Mr Binniyat's lawyers argued he was being detained illegally, since magistrate courts do not have jurisdiction over cyberstalking cases. The judge then scheduled a bail hearing for 6 December 2021, which he did not attend, claiming his annual leave had begun on 1 December.

A new date was set for 29 December; however, the judge did not attend once again, and Mr Binniyat was not even brought to court. As his lawyers concluded plans to apply for a hearing in a higher court, the prosecution filed the case in a high court, and reportedly served the papers to Mr Binniyat in prison.

In early January 2022 news emerged that Mr Binniyat had fallen gravely ill. The news was broken by his wife, Mrs Gladys Binniyat, who attempted to visit him on 5 January, but was informed he was too unwell to see her, and that he had been taken to the poorly equipped prison clinic in a wheelchair a day earlier.

In a comment [publicised](#) on 7 January, Mrs Binniyat said: “He called me on [4 January] saying that his legs are giving him issues. He said they were swollen, and he could not work. He was rushed to the prison clinic in a wheelchair. They just bandaged his legs, and he gave them money to buy drugs which he used. They took him back to the cell before they attended to him. I don't have confidence in the treatment they gave to him; he complained of pains at around 7 am and you gave him treatment by 6pm, if it is something that would have killed him that was how they would have left him to die. I saw him this morning. His legs are still swollen and can't work. I want them to release my husband for me so that he can be taken care of. I am not sure of the kind of drugs given to him. I don't trust them. I want him to be taken to a good medical facility for proper check-up and treatment.”

Mr Binniyat's next court hearing was scheduled for 9am on 24 January. It was scheduled to take place before the Federal High Court in Kano, and would have marked his first appearance before a court that has jurisdiction over the charges levelled against him. However, the hearing was adjourned until 27 January, after the presiding judge failed to attend court, having reportedly missed his flight. It is vital that the Kaduna state government ensures Mr Binniyat receives prompt and appropriate treatment for his ailment, a fair bail hearing, and that due process is observed during his trial, with justice being seen to be done.

Luka Binniyat's Earlier Case

This is the second time that Mr Binniyat has been detained arbitrarily. On 12 July 2017, Mr Binniyat was remanded in custody by a Kaduna State High Court, charged with breach of the peace and injurious falsehood in connection with a story about an attack by armed Fulani assailants in southern Kaduna that later proved incorrect. He was detained despite making strenuous efforts to have the story withdrawn prior to publication and having issued a public apology. The publisher and his then employer, Vanguard Newspaper, was not penalised.

During a court hearing on 12 June, Mr Binniyat, who was on crutches and medication following an accident, entered a not guilty plea. He was remanded in custody and the case was adjourned until 20 July. In a strongly-worded statement issued on 14 June, the Nigerian Union of Journalists [denounced](#) the arrest of Mr Binniyat and the harassment of three other journalists as part of an effort by the Kaduna State government to "cage the media and muffle freedom of expression."

During the hearing on 20 July, Justice Sukola, sitting in High Court 10 in Kaduna, granted bail on condition that two sureties (guarantors) post bonds of N10 million each (approx. US\$31720.00), which must be renewed every six months, and surrender their international passports for as long as the case lasted. The case was adjourned until 31 August, and Mr Binniyat was returned to prison pending the posting of bail.

There was widespread condemnation of the bail terms, with several observers describing them as "nearly impossible conditions" which were "not meant to be met," and which were designed to "cripple" anyone standing as a surety. One source informed CSW that "even if two sureties can be found, these people would not be able to travel abroad for the duration of the case, which could be made to continue indefinitely, making it extremely difficult for them."

In a comment to Nigerian press agencies following the hearing, lead counsel for the defence, Alex Marama, described the bail conditions as too demanding and stringent for his client. He added that the defence team would be applying for a downward review in the interests of equity and justice.

Mr Binniyat's lawyers filed a motion for a review of the

bail terms on 7 August. However, during the hearing on 31 August, Judge Sukola refused to review the bail terms, ostensibly because a new lawyer would be taking over the case for the prosecution, and he adjourned the case until 9 October, granting an application by the prosecution for a delay in the bail review to allow the new lawyer time to prepare. As Mr Binniyat was remanded in custody yet again, his lawyer, Barrister Kanyip, said that he would seek redress at the Court of Appeal if the bail motion was not handled in a satisfactory manner.

Although the incredibly stringent terms were eventually met, Justice Sukola refused to release him, insisting that the bank bonds had to be performance bonds from contractors handling government contracts.

However, during a hearing on 9 October, the judge instructed the prosecution and defence teams to discuss bail conditions in private and report back to the court. It was subsequently decided that bail would be granted once three sureties presented bank statements showing at least N10 million in credit. Bail was posted, and Mr Binniyat was released at 1:45pm on 12 October, after spending 96 days in pre-trial detention.

Case Study: Kaduna State

Mr Binniyat is one of several civil society actors to fall foul of the Kaduna State authorities. Reporters, activists and even members of victim communities seeking to highlight attacks on the predominantly Christian area of southern Kaduna by Fulani militia (who were recently [designated](#) terrorists) often endure harassment, intimidation, vexatious litigation resembling Strategic Lawsuits Against Public Participation (SLAPP), and lengthy periods in pretrial detention as court hearings are deferred repeatedly. While several journalists are targeted for [other politically motivated reasons](#), the following cases illustrate the nexus between such litigation and events in southern Kaduna, an area which has been under sustained attack since 2016:

- On 28 April 2016 Jacob Onjewu Dickson, at the time employed by online media Authentic News Daily, was arrested, reportedly after filing a story about angry youth [pelting](#) the convoy of Kaduna State governor Nasir el Rufai with stones during a visit to Kafanchan in Jema'a Local Government Area (LGA), southern Kaduna. Mr Dickson had been invited to a 9am meeting by the Kaduna State Commissioner of Police and had spent the rest of the day at the State Intelligence Bureau, before spending the night in a cell at the Gabasawa Police Division, where he was not allowed to make any calls or receive visitors. The following morning, he was arraigned hastily before a Kaduna Magistrates Court, without being granted access to a lawyer, and was initially charged with false personation (for using a pen name) and inciting disaffection against the government of Kaduna State, with an additional charge of criminal defamation of the governor's character included later. Mr Dickson was released on bail seven days later.

- Audu Maikori, CEO of Chocolate City Entertainment, was arrested twice during 2017, for posting ‘inciting’ materials on Twitter about killings in southern Kaduna. He had tweeted information received from his driver detailing the murders of students by Fulani militia, which was used in a report by Mr Binniyat, but which later proved false. Despite withdrawing his tweet and issuing an unreserved and public apology, Mr Maikori was arrested and detained on 17 February, then re-arrested, after having posted bail, on 10 March, in Lagos and Abuja respectively, before being transported to Kaduna State. In 2017 Mr Maikori filed a violation of fundamental human rights suit at a Federal High Court in Abuja against the Kaduna State Governor, Inspector-General of Police, Commissioner of Police, and Attorney General, and was awarded N40 million in damages.
- Midat Joseph, the Bureau Chief of Leadership newspaper in Kaduna State, was arrested on 19 April 2017 for alleged incitement for his part in a conversation in a WhatsApp group about a post calling for a demonstration to protest the killing of civilians in southern Kaduna by Fulani militia. After being detained by the police for 48 hours, he was arraigned before a Magistrate Court. Both Mr Joseph and freelance journalist Sunny Yayock were charged with criminal conspiracy, inciting disturbance and injurious falsehood. The case was dismissed in July 2017.
- On 23 November 2018 Segun Onibiyo, a broadcaster with the Federal Radio Corporation of Nigeria (FRCN), was arrested and detained. According to a First Information Report (FIR) dated 14 November, he was accused of ‘incitement, disturbance, defamation of character and injurious falsehood’ in a Facebook post which had described Governor el Rufai as a ‘religious jingoist’ and claimed that prior to his murder by Fulani abductors in October 2018, paramount ruler Agwom Adara III HRH Dr Maiwada Raphael Galadima had resisted efforts to create an emirate (which was subsequently created) within his predominantly Christian chiefdom in Kajuru LGA. Mr Onibiyo denied the allegations, stating that the Facebook page containing the post had been hacked prior to 2015, and he had subsequently created two other accounts. He was granted bail after spending 24 days in detention. The case continues to date, and Mr Onibiyo, who no longer resides in Kaduna State, is obliged to travel there for court dates along with his lawyer at his own expense, only for hearings to be [adjourned repeatedly](#).
- On 8 May 2019 journalist and activist [Steven Kefas](#) was traced to Rivers State in southern Nigeria and arrested, reportedly on the orders of Governor el Rufai, after sharing on social media an exclusive story by the online journal Sahara Reporters on the events leading up to the abduction and murder of the Agwom Adara, who was killed despite payment of a ransom. He was charged with injurious publication, incitement, and false accusation, and transported to Kaduna State on 9 May. Mr Kefas spent 162 days in Kaduna’s maximum security prison before being granted bail.
- Between 12 and 15 February 2019 the nine elders of the Adara tribe (Engr. Bawa Magaji, Sani Magaji, Awemi Dio Maisamari, Joseph Abdalla, Tanko Maisanari, Hosea Danladi, Joseph Ayuba, Tanko Wada, and Ulu Maitumbi) who oversee the Chiefdom since the murder of the Agwom Adara were detained, threatened with charges of incitement and culpable homicide, and denied bail. Six were released on 31 May for lack of evidence; one was released on bail, and another, Mr Maitumbi, was held pending further investigation into a hunting gun that was found in his home.
- In March 2019, the Kaduna State government filed a case against human rights activist, lawyer, writer, and former chair of the Nigerian Human Rights Commission Professor Chidi Odinkalu, accusing him of injurious falsehood and incitement. Between 9 February and 16 March at least 130 people had been killed in Kajuru LGA, southern Kaduna, and 12,480 were displaced between February and April in a series of attacks on the Adara Chiefdom that followed a televised statement by Governor el Rufai on the eve of the presidential elections (which were later postponed) in which he alleged 66 people had been killed in Kajuru LGA, insinuating the victims were mostly women and children from the Fulani ethnic group. This claim was widely refuted, including by the Nigeria Emergency Management Agency (NEMA) and the local police chief. In a televised interview Professor Odinkalu had [disputed](#) the governor’s assertions, stating he had uttered “words that were calculated to be very incendiary, on the eve of very difficult elections about a location that is very difficult and has had historical problems with violence across communities.”

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