



West Africa Internet Rights Monitor

April - June 2018



with funding support:  **accessnow**

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Executive Summary

Technology-driven changes are increasingly transforming the world, and West Africa has not been left out of this transformation. In addition, the Internet is not only becoming a major medium for communication and information dissemination, but it is also expanding the possibilities for people to enjoy freedoms of expression, assembly, privacy and anonymity.

The Internet, from its earliest beginnings, evolved from a set of fundamental principles based on openness and inclusiveness. As a relatively new technology, especially in Africa, with a fast-paced evolution, the Internet is not adequately covered with the right policy and regulatory frameworks. It is also faced with legal and other frameworks that sometimes turn out to be repressive of individuals' rights.

To help shape the digital environment in West Africa, the Media Foundation for West Africa (MFWA), with funding support from Access Now, is undertaking a project to monitor, document and report digital rights developments in West Africa. The results of this monitoring are published as **the West Africa Internet Rights Monitor**.

This year's second quarter report (April - June 2018) presents findings on the Internet freedom situation in ten countries -Benin, Burkina Faso, Liberia, Ghana, Guinea, Mali, Niger, Nigeria, Senegal and The Gambia. Six out of the ten countries being reported on recorded digital rights violations during the quarter. No digital rights violations were recorded in Benin, Ghana, Niger and The Gambia.

In all, nine incidents were recorded. These include seven violations and two cases of cybercrime.

Findings from the report show that governments are increasingly criminalising online expressions which can eventually lead to self-censorship, and which could potentially lead to apathy towards governance and democratic processes. The quarter also recorded some incidents of cybercrime, including hacking of social media accounts.

To help enhance digital rights and freedom of expression online, it is recommended that governments repeal laws that criminalise online expression and formulate policies that enhance digital rights and protect Internet users. The MFWA also calls on governments to collaborate with Internet Service providers in the fight against cybercrime to ensure a safe online environment for all. Governments are also encouraged to work with internet service providers to ensure reduced cost of data and other Internet-based services.

Introduction

Today, the Internet is one of the most important technological innovations which has transformed various aspects of society. Access to the Internet has led to improvements in the enjoyment of human rights, especially freedom of expression and access to information rights.

Aside connecting people to the digital world, the Internet is serving as a tool for individuals to participate in civic and governance processes to ensure duty-bearers are held accountable.

While individuals continue to find ways to enjoy the benefits of the Internet, there are emerging threats to this digital freedom from state actors and individuals. Some repressive regimes, in attempts to control the use of the Internet by citizens as a tool for highlighting and discussing critical issues, are using various measures such as criminalisation of online expression, filtering and blocking of online content, monitoring, surveillance, throttling of networks and Internet shutdowns.

While governments are devising ways to curtail the digital rights of citizens, some individuals are also finding various means of using the Internet to perpetrate cyber crimes. Issues of cybercrime such as cyber hacking, credit card and identity theft, etc are gradually becoming a worrying trend for many countries in West Africa.

With the rising concerns over repression and challenges of digital rights and Internet freedoms, the Media Foundation for West Africa (MFWA), with funding support from Access Now, is undertaking a project that seeks to monitor, track and document trends in the online space in West Africa. The project seeks to document and report on Internet-related developments in West Africa.

The monitoring reports, which are published on quarterly basis is titled: **The West Africa Internet Rights Monitor**.

The publication is to serve as a reliable database and reference material for Internet freedom advocates at the national, regional and international levels to inspire evidence-based advocacy and policy dialogues with policy makers and implementers.

This edition of the Monitor covers the period April to June, 2018 and presents the Internet freedoms and digital rights situation in ten countries – Benin, Burkina Faso, Liberia, Ghana, Mali, Niger, Nigeria, Senegal and The Gambia.

Methodology

The findings presented in **The West Africa Internet Rights Monitor** are based on the collation and analysis of monthly monitoring reports of internet-related developments submitted to the MFWA by its trained Internet right monitors and national partner organisations in the various countries in West Africa.

For consistency in reporting and to ensure all major developments are captured, the MFWA developed an Internet Rights Monitoring tool, which was shared with the national partner organisations and Internet monitors. A manual that provides tutorials on the monitoring tool was also developed and shared with the partners and monitors to serve as a guide during the monitoring process.

Using the monitoring tool and the manual, the national partners and monitors gathered and submitted monthly Internet-related information in their respective countries to the MFWA which was then collated and analysed into this report.

General findings

The online environment in the sub-region remained vibrant and diverse. Internet access and the use of Internet-based services continue to increase. This is as a result of investments in telecommunications infrastructure by governments and private service providers.

In spite of this development, low Internet speeds, high cost of data and poor quality of services continue to affect Internet use in West Africa.

Both state actors and non-state actors increasingly attack journalists, bloggers, activists and Internet users because of their online content or activities.

During the quarter, Burkina Faso, Liberia, Mali, Nigeria and Senegal recoded incidents of digital rights violations. There were reports of social media blackout in Mali. Hacking of social media accounts was a predominant issue in the online space in Nigeria.

Human rights respecting Internet-specific laws are necessary for the protection of human rights online and protection of Internet users from infringements. However, almost all the countries being reported on do not have Internet-specific regulations, thus leaving the digital environment open to abuses by both state and non-state actors.

A number of positive developments were also recorded in Benin, Burkina Faso, Ghana, Niger, Senegal and The Gambia.

Country Specific Findings

This section presents the digital rights and Internet freedoms situation in the various countries being reported on during the quarter.

Benin

Benin did not record any digital rights violation during the quarter.

On April 23, 2018 President Patrice Talon, through an official declaration, put into effect the country's first Internet-specific law known as 'Code Numerique'. The Minister of Digital Economy and Communication announced the promulgation of the law at a ceremony to launch an E-VISA platform for the Ministry of Foreign Affairs and Cooperation. It is a law to regulate the cyberspace in the country.

As part of activities to educate people in the country on the Digital Migration process, a state institution in charge of training and research in education (L'Institut National pour la Formation et la Recherche en Education-INFRE) on June 28, 2018 trained journalists and media persons on Benin's Digital Migration process. The Minister of Digital Economy and Communications, Aurélie

Adam Soule Zoumarou, also went on a working visit across the country to inform and educate the media on the digital migration process.

Burkina Faso

Since the emergence of the Internet, Burkina Faso's digital space has been relatively free. The country recorded no incidents of violations during the first quarter of 2018. This quarter, however, witnessed the arrest of an activist who used social media to express his opinion.

On June 14, 2018, Naim Toure, an activist, was arrested following a Facebook post on a story published in the national daily, *Sidwaya*. The newspaper's publication was about the alleged neglect of a gendarme who was severely injured during an operation by the National Gendarmerie in a building occupied by alleged terrorists in the capital, Ouagadougou. The National Gendarmerie accused Toure of inciting the military to revolt and consequently arrested him.

There was, however, a positive development in the country. The Minister of Digital Economy and Postal Services, Ms. Fatmata Ouattara/Sanon, at a conference organised by an association of bloggers, L'Association des Blogueurs du Burkina on June 7, 2018 affirmed her ministry's commitment to enhancing Internet connectivity and use in the country.

Ghana

Ghana's online environment has for some time now been free of digital right violations. During the period, a few positive developments were recorded.

As part of efforts to fight cybercrime in the country, the Criminal Investigations Department on May 10, 2018 arrested Danny Kafui Gblonya, an IT technician, for stealing GH¢114,255 (about US\$ 23,703.87) data bundle belonging to internet service provider, Busy Internet. Gblonya, who had accessed the data on the web portal where customers log in to purchase data bundles, pleaded guilty to two counts of unauthorized circumvention contrary to section 127 of the Electronic Transaction Act, 2008 (ACT 772). He was granted bail with three sureties by an Accra circuit court on June 22, 2018.

A number of forums and meetings were held during the period to discuss issues related to digital technologies. With the use of the internet, mobile money systems are gradually becoming a major means of performing financial transactions in Ghana. As part of efforts to make banking services more accessible and allow for greater financial inclusion, Ghana's Vice President, Dr. Mahamudu Bawumia, on May 10, 2018, launched the first mobile money payment interoperability system. The platform is expected to enhance the performance of financial transactions in the country as customers can now easily make money transfers between different mobile money accounts and bank accounts. Prior to this, customers could only make mobile money transfers from their accounts to a user of the same mobile money service they are subscribed to.

On June 18, 2018, the National Media Commission (NMC), in collaboration with the Friedrich Ebert Stiftung Foundation, organised a sensitisation forum on Ghana's digital migration process in Tamale. The forum served as a platform for stakeholders to make suggestions to the government and NMC for a successful implementation of the digital migration policy. Speaking at the forum, Executive Secretary of the NMC, Mr. George Sarpong, called on stakeholders in the communications industry to collaborate, be actively involved in the process and make inputs into

Ghana's digital migration policy to ensure that innovative mechanisms are put in place for an effective process.

Also, the Minister for Communications, Ms. Ursula Owusu-Ekuful, inaugurated an interim management board for the Accra Digital Centre (ADC) that will ensure effective operations of the agency in driving the Information Communication Technology (ICT) industry in the country. This is a major development because the effective management of the center will contribute to position Ghana as a regional digital hub through the provision of relevant ICT and e-services to the populace and various sectors of the economy.

Other activities that took place in the country during the quarter were the celebration of the Girls in ICT Day on May 4, 2018 at the Kwame Nkrumah University, Kumasi in the Ashanti Region and the launch of a "Coding for Kids" Project, by the Ghana Investment Fund for Electronic Communications (GIFEC) on May 16, 2018. The purpose of the coding for kids' project is to train school children in mobile technology applications to solve societal challenges and needs.

Guinea

Guinea's digital space was devoid of digital rights violations during the first quarter of the year. The country, however, recorded a defamation suite during the reporting period.

On June 20, 2018, Mamadou Saliou Diallo, founder and editor of Nouvellesdeguinee.com, was arrested and detained by the judicial police directorate upon a defamation complaint by the Minister of Justice, Cheick Sako. The minister's complaint was in connection with an article Diallo authored, accusing him of taking bribes in a contract to build a new prison. The article was removed several hours after being posted online.

Diallo was released on July 5, 2018 under strict limitations including the confiscation of his travel document by the court officials. His arrest and detention were against the country's 2010 press law which decriminalises press offenses.

Liberia

Liberia is one of the West African countries that has recently witnessed a change in government. The country's freedom of expression environment is generally free even though there are pieces of legislation that are inimical to the enjoyment of freedom of expression rights both offline and online.

One of the country's leading online newspapers, FrontPageAfrica (FPA) was closed down by court sheriffs with the staff taken away to a Civil Law Court in Monrovia. This incident, which occurred on April 9, 2018, was in relation to an advertiser's announcement published in the March 16, 2018 edition of the newspaper which has become the subject of a defamation suit. The journalists were held for some three hours before they were released on a US\$350,000 bail bond. The suit was in spite of the newspaper's publication of a correction to the announcement on March 23, 2018, at the request of lawyers of the plaintiffs.

To improve the freedom of expression environment, Liberian President George Weah, on May 31, 2018 submitted to the Legislature a revised Bill to decriminalise speech offences and to amend Chapter 11 of the Penal Law of 1978. The Bill proposed the repealing of Sections 11.11 on criminal

libel against the President; 11.12 on Sedition and 11.14 on criminal malevolence. These sections of the Penal Code, have been used to persecute Internet users and journalists whose content are critical of government or state officials. The decriminalisation of speech offence will enhance freedom of expression rights in the country.

Mali

Mali's online space is largely unrestricted. However, recent events in the country have raised concerns about the potential deterioration of the online environment.

On June 4, 2018 there were reports of a social media blackout in the country. On that same day, consumers of the public telecommunication company, Malitel, were not able to access telecommunication services from the operator as they did not have access to network. This disruption followed banned opposition demonstrations ahead of the country's presidential elections.

Niger

The Internet is used as a major medium for information dissemination and communication in the country, with social media platforms such as Facebook, WhatsApp and Twitter being the major platforms used for engagements.

During the reporting period, the government of Niger took some major steps aimed at enhancing the digital environment in the country by transforming the High Commission for Niger ICTs (Haut-commissariat aux NTICs) into the National Agency for Information Society (Agence Nationale pour la Société de l'Information-ANSI). As part of its mandate, ANSI is expected to drive the digital transformation of the country and support the development of digital projects by young people.

The government , during the period, gave authorisation to telecommunication companies to operate 4G services in the country.

During a Council of Ministers meeting on June 22, 2018, the government of Niger adopted a Bill establishment and operationalization of the Autorité de Régulation des Communications Électroniques et des Postes (ARCEP) which is the agency in charge of regulating telecommunications. The Bill was formulated in accordance with Article 19 of ECOWAS Supplementary Act A/SA of January 19, 2007. The adoption of the Bill is to enable the country comply with the additional acts of Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (WAEMU) directives on the harmonisation of policies and the regulatory framework of the ICT sector. The Bill also seeks to enable Niger to better shape the ICTs sector and enable the country adjust to new security and regulatory standards in the telecommunication sector.

Nigeria

One of the countries in the sub-region with the highest number of internet users, Nigeria, has significant segments of its population unconnected. Although the country's digital environment is less regulated, there have been attempts by state officials to regulate what Nigerians do online.

Nigeria recorded one incident of digital rights violation. On May 29, 2018, Saint Mienpamo, a blogger escaped death when persons suspected to be militants broke into his house. He was beaten

and abducted by his attackers to the house of a former militant leader known as “Africanus Home”, where he was threatened with death. The assault is suspected to be in connection with a report on Mienpamo’s blog about an alleged attack on the boat of one Joshua Machiver, also a former militant leader. Police are currently investigating the incident.

The Nigerian Senate is currently considering a Bill on social media. According to Senator Sabi Abdullahi, who is the Chairman of the Senate Committee on Media and Public Affairs, the Hate Speech Bill is not to crackdown on freedom of expression, but for the country to have a law that would make Nigerians more “responsible and respectful of the rights and sensibilities of the public and individuals.” The proposed Bill. However, contains some repressive elements that may restrict freedom of expression. Among other sanctions, the Bill proposed that any person found guilty of any form of hate speech that results in the death of another person shall die by hanging upon conviction. Also, the Bill proposes a jail term of not less than five years or a fine of not less than N10 million (about US\$27,600) or both for offences such as harassment on the grounds of ethnicity or racial contempt. These extreme punitive measures can curtail freedom of expression online and must be amended or repealed before the Bill is passed into law.

The Senate Committee on ICT and Cybercrime organised the 2nd Legislative–Stakeholders Conference on Cyber Security on June 26, 2018. The conference was held under the theme: “Cyber Security: Implication of disruptive Technologies on National Security and Economy”. The Minister of Communications Adebayo Shittu, said his ministry would work with the Office of National Security Adviser and the National Assembly ‘to reinforce or build international norms to regulate adverse state behaviour, and continue to partner with state intelligence and security agencies to impose sanctions on those that undermine the country’s “interests and global security on the cyberspace.”

In attempts to check activities that undermine cyber security online, it is important for Nigeria’s legislature to ensure that laws and policies formulated respect human rights online and do not crack down on freedom of expression as is the case in the proposed Hate Speech Bill and other measures being put in place.

On April 14, 2018, the official Twitter account of All People’s Congress (APC), Nigeria’s ruling party, was hacked and allegedly sold for US\$2000. The new manager/hacker of the account, one John McAfee, changed the account name but maintained the account handle as ‘@APCNigeria’. The account, which was used to deliver updates on the work of President Mahammadu Buhari’s government and the party, is currently being run from the United States of America, and selling bitcoins and cryptocurrencies. The APC have issued official statements in which it has dissociated itself from the handle and described the hacking as a case of criminal impersonation.

The Twitter account of Ahmed Salkida, a Nigerian journalist who is an expert on Boko Haram issues, was compromised. The Twitter account of the journalist was compromised and locked on June 8, 2018. This occurred after he criticised the government of Nigeria for falsely raising the hopes of parents of some of the Chibok girls kidnapped in April 2014, that the captives were still alive. According to Saldika, shortly after that tweet, he was unable to access his account and was subsequently notified by Twitter that his account had been blocked to keep it safe after there were attempts by a third party website to access it. This incident raised concerns over how critical journalists, bloggers and activists are at the risk of being targeted for surveillance and attacks.

During the reporting period, the Lagos State Police Command arrested Joel Asabor, who had been impersonating a Senator from Anambra State, Andy Uba, on Facebook and defrauding some job

seekers through a fake recruitment into the Nigerian National Petroleum Corporation. Police were able to arrest him after a petition by one of Asabor's victims, Chinelo Nwadi. Following the petition, the police operatives travelled to Delta State, where the suspect was apprehended.

The 6th Internet Freedom Forum was also held at the Nigeria Airforce Conference Centre in Abuja between April 24-26, 2018. The forum, which was organised by Paradigm Initiative, brought together digital rights experts and stakeholders from across Africa and the world to discuss the state of Internet freedom in Africa and to help shape the future of Internet policy in Africa. Stakeholders present at the forum called on President Buhari to sign Nigeria's Digital Rights and Freedom Bill into law. The Executive Director of the Centre for Cyber Awareness and Development (CECAD), Hilary Damissah, called on government to take urgent steps to review data prices to make data affordable to majority of Nigerians.

Senegal

On April 9, 2018, Assane Diouf, who was accused of using social media to defame prominent Senegalese, including President Macky Sall, was brought before a judge on defamation charges. Diouf has been in detention for over six months now since his arrest. Judgement is yet to be passed on the case.

On May 15, 2018, Ankou Sodjago, a journalist working for the news website *Senego* was assaulted by the police at the Université Cheikh Anta Diop in Dakar while he was covering a demonstration which resulted in clashes between students and security officers. Diop was filming and streaming the violent clashes live on Senego's Facebook page when a police officer seized the phone he was using. Two police officers hit him in the head when he showed his press card and requested that the phone be returned to him.

In its mission of popularizing of the Senegalese framework for the protection of personal data, the Commission for the Protection of Personal Data (Commission de Protection des Données Personnelles-CDP) on June 25, 2018, organised a conference on the Law on Access to Personal Data. The conference, which brought together editors from various media houses and press unions, sought to educate media practitioners on the country's personal data protection framework to enable them sensitise citizens about it. Present at the meeting was the Minister of Communication, Telecommunication, Posts and Digital Economy, Abdoulaye Bibi Baldé, and the president for CDP, Awa Ndiaye. Awa Ndiaye stressed the need for collaboration between the media and the Commission in order to develop a framework for the handling and protection of personal data.

The Africa Internet Summit (AIS), which is an annual regional, multi-stakeholder ICT conference, was held in Dakar from April 19 - May 11, 2018. The conference brought together key players in the Internet industry in Africa to interact with the global Internet community and discuss challenges in the online space in Africa. Topics discussed included mobile networking, applications, cyber security, Internet governance, ICT for development and African ICT success stories were examined. During the meeting, the Privacy and Personal Data Protection Guidelines for Africa, which is a joint initiative of the Internet Society and the Commission of the African Union, was launched. The Guidelines seek to introduce measures that can be used in safeguarding Internet infrastructure in Africa and emphasize the notion that good data protection strengthens trust in online services and contributes to the sustainable growth of the digital economy.

The Gambia

The Gambia, as part of reforms under the new government had some major development in its digital environment during the quarter. The Supreme Court ruled declaring the law on False Publication on the Internet, among other repressive pieces of legislations, namely defamation and aspects of Sedition, unconstitutional. The Supreme Court, however, said the laws on False News, as well as False Publication and Broadcasting, are constitutional. The Court also made a distinction on Sedition making it a criminal offence only when the seditious act is on the person of a person or intends to promote hatred among different classes of society. The Court indicated that there is no sedition when the target is the government as an institution. The ruling also ordered the Gambian government to repeal repressive laws including sections 178, 179 and 180 of the Gambian Criminal Code, which penalises libel and defamation, as they do not promote free speech and press freedom.

Conclusion and Recommendations

Findings from the monitoring shows that Internet users whose work is critical of government or state officials are increasingly coming under attack from both state and non-state actors.

The seven digital right violations recorded during the quarter, which are targeted mainly at activists and journalists, could have dire implications for freedom of expression online and the right to information. Similarly, the Hate Speech Bill under consideration by the Senate in Nigeria could suppress citizens' right to use social media freely.

The crackdown on divergent online content as witnessed in Senegal and Burkina Faso can also lead to suppression of freedom of expression and press freedom.

On the positive side, Liberia and the Gambia are taking steps to repeal repressive laws, a development which is a major boost to freedom of expression both online and offline.

In view of the above findings, it is recommended that:

- Governments must amend and repeal repressive laws that seek to criminalise freedom of expression online.
- Governments must formulate laws and policies that enhance digital rights and protect Internet users.
- Governments must collaborate with Internet Service providers in the fight against cybercrime to ensure a safe online environment for all.
- Governments must work with Internet Service Providers to ensure reduced cost of data and other Internet based services.
- Governments must find other alternatives to ensure order, especially during times of unrest, instead of resorting to social media blackouts or Internet shutdowns.



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