

INTERNET RIGHTS SITUATION IN WEST AFRICA: A REPORT ON INTERNET RIGHTS MONITORING CONDUCTED FROM APRIL TO SEPTEMBER 2015

Introduction

The internet and associated technologies have significantly transformed global communications and development. The internet continues to present enormous opportunities for innovation and economic development, as well as good governance and human rights advocacy.

Fortunately for Africa, there has been significant increase in internet penetration and usage since its advent on the continent in the early 90s opening up its vast potential to many Africans especially the youth. This increased access and usage is contributing to technologically driven development on the continent. However, as in other parts of the world, some African governments are increasingly using surveillance, passage of new laws or application of existing ones, restriction of user anonymity, and other policies, to limit the use of the internet as a tool for free expression and influence in their countries.

In response to this worrying and yet growing phenomenon, many human rights and freedom of expression organisations (both African and international), including the Media Foundation for West Africa (MFWA), are actively engaged in internet freedom advocacy to ensure that “the same rights that people have offline ... [are] protected online, in particular freedom of expression,” in line with the UN Human Rights Council (UNHRC) resolution.

The MFWA has been engaged in internet freedom advocacy for the past three years with support from UK-based Global Partners Digital. The organisation’s Internet Freedom Programme is aimed at promoting internet freedoms through awareness creation and policy and regulatory reforms that ensure a free, open and secure internet for all West Africans. As part of activities under the Programme, the organisation undertakes monitoring exercises to assess the internet freedom situation in the 16 West African countries. The findings from the monitoring exercises are shared with the public through available media to inform advocacy work.

This report is the first of the monitoring reports for 2015. It covers monitoring exercises undertaken from April - September 2015 in West

Africa. The findings presented in the report, however, cover only the countries where specific incidents were recorded within the monitoring period. The report concludes with recommendations for reforms/redress.

Objectives of the Monitoring Exercise

The monitoring and reporting of online violations and other developments in West Africa is aimed at generating evidence-based reports on the online environment in the respective countries in the region. Apart from serving as reference materials, the reports are also intended to be used by the MFWA and other human rights defenders and online activists as advocacy tool for reform and redress campaigns.

Methodology

The internet rights monitoring exercise involves the monitoring and reporting of online violations, introduction or review or repeal of laws; and other developments (both positive and negative) in the online sector. The monitoring is done by experienced human rights and freedom of expression rights monitors of the MFWA (including MFWA's country partners) in the 16 countries of West Africa.

The work of the monitors is guided by a monitoring instrument and a manual (both developed by the MFWA) which explains the rationale behind the exercise, and the kind of issues to look out for. The monitors submit monthly reports on specific online violations or developments in their respective countries. The monitoring reports are analysed on a quarterly basis by the MFWA using the Statistical Package for Social Sciences (SPSS v.20). The findings are then shared with the public through the media. This report however covers the first two quarters of the monitoring exercise which spans April to June (first Quarter) and July to September 2015 (second quarter).

Findings

Monitoring reports were received from almost all the 16 countries monitored. The findings below, however, cover only the countries where specific cases and noteworthy developments were recorded. The countries include

1. Cote d'Ivoire
2. The Gambia
3. Ghana
4. Mali

5. Niger
6. Nigeria
7. Sierra Leone
8. Togo
9. Guinea

Overview – General Freedom of Expression and Regulatory Environment

Analyses of the reports received from the MFWA monitors show that the right to freedom of expression (FoE) is generally respected with occasional incidents of violations in almost all the nine countries (mentioned above) with the exception of The Gambia where FoE rights are neither respected in principle nor in practice. Majority of the nine countries do not as yet have specific online related laws in place that govern or regulate online activities. Nigeria, on the other hand, passed a Cybercrime Bill into law in May 2015.

In countries such as Ghana and Mali, it is the Electronic Communications Act and Information and Communications Technology policy that have provisions which cover certain aspects of online communications. For a country like Niger, the online media is regulated using the existing press laws. In Cote d'Ivoire, the High Authority of Audio-visual Communications (HACA) and the National Press Council (CNP) have been working together in consultation with the Network of Online Media Professionals in Côte d'Ivoire (REPPRELCI) to develop some guidelines for the Authority that will help address unethical practices online. This move (at the time) was particularly targeted at averting any form of online misconduct which could lead to election-related violence as the country was then preparing for the presidential elections in October 2015.

Irrespective of the countries' regulatory system concerning online activities, some online media practitioners have taken a proactive step to protect their interests online. So in countries such as Cote d'Ivoire, Guinea and Niger, some of the online media practitioners have come together to form networks/association that promote and protect their welfare.

Specific Incidents of Violations

Over the six-month period, there were five cases of individuals who were arrested, sanctioned and/or taken to court for their online activities. Most of the online activities which resulted in an arrest, suspension and arraigning before court were done via social media platforms such as Facebook and WhatsApp. The details of the five cases are presented in Table1 below:

Table 1: Incidents of Violations

Country	Month	Issue
The Gambia	July	<p>1) A man was arrested and charged for “uttering words with intent to wound religious feelings” by sharing a picture of Prophet Mohammed with a little girl on his lap on Facebook.</p> <p>2) A journalist was arrested, released and rearrested for publishing and distributing pictures of a gun and five bullets, pointing towards the image of the President “with intent to excite disaffection against the Gambian President.”</p>
Ghana	July	<p>A former Minister of state sued two men and a newspaper for GHC5million (about US\$1.2m) for libel in purporting that he (the former Minister) leaked a tape covering a meeting that was held at a former President’s residence. Among the three sued was a political party activist who was alleged to have been the first to post the ‘defamatory’ material on his Facebook page.</p>
Guinea	July	<p>The founder of a website, Guineelive.com, was handed a six months’ publication suspension by the Guinean Online Press Association. He is said to have flouted ethical rules by calling the rich owner of the biggest lottery company in the capital, a drug trafficker.</p>
Sierra Leone	May	<p>Mamoud Tim Kargbo was arrested and charged on five counts for allegedly libelling President Ernest Bai Koroma of Sierra Leone on Whatsapp by calling him a “wounded Beast.” He is said to have published on WhatsApp: “President Koroma is a very strong suspect in the murder of the bodyguard.” “President Koroma at this point is a wounded beast who can do anything to remove the pressure off his back.”</p>

Beside the personal arrests, charges and suspension, there were also reported cases of hacking of websites and Facebook pages belonging to institutions and individuals. The website of the Niger Agency for the Promotion of Rural Electrification (ANPER) was attacked by hackers bearing the name 'mouhajidine' both in June and July 2015. In Guinea, the Facebook page of the Prime Minister was hacked in July. Another Facebook page hacking occurred in Nigeria where the official Facebook fan page of the Nigerian singer, Dare Art Alade, was hacked in June by unknown hackers who posted explicit pictures and videos on his wall.

Whereas the above were direct attacks on specific websites and Facebook pages, the case of Togo was quite different. During the presidential elections in April 2015, a number of websites and blogs which were known to provide information on the counting of votes and results of the elections could not be easily accessed. It was difficult for users to open these sites and site administrators to animate them from Togo. The websites and blogs that were affected were those perceived to be affiliated to opposition parties and those of the fight for political alternation. The affected sites included *afrikaexpress.info*; *letempstg.com*; *togoelection2015.com*; *icilome.com*; *letogovi.com*; *togoactualite.com*; *togocity.fr*; *togosite.com*; and *togoinfos.com*.

The monitoring also found that sector regulators in two countries, Sierra Leone and Mali, were trying to implement SIM Registration laws. While the Registration exercises in and of themselves may not be wrong, the rationale behind their introduction and enforcement may be a source of concern for privacy. In the case of Sierra Leone, the telecoms regulator, the National Telecommunications Commission (NATCOM), wanted the law implemented to the letter to make easy identification of individuals who use telecoms services for unethical (posting of 'immoral' content) and criminal purposes. For Mali, the implementation of the SIM Registration law was to help fight cyber and computer-related crimes.

In Table 2 below, all the cases recorded have been presented on country by country basis:

Table 2: Frequency of Cases Recorded in Each Country

Country	Arrest	Suspension	Taken to Court	Hacking		Slowed Access to Website	Passed Bill	SIM Registration Implementation
				Website	Individual			
Cote d'Ivoire								
The Gambia	2 Cases		2 Cases					
Ghana			1 Case					
Mali								
Niger				2 Cases				
Nigeria					1 Case		1 Case	
Sierra Leone	1 Case		1 Case					
Togo						1 Case		
Guinea		1 Case			1 Case			

 1 Case

 2 Cases

Other Developments

On the civil society front, some civil society organisations (CSOs) in three of the nine reported countries engaged in awareness creation and capacity building activities to empower stakeholders, especially CSOs with knowledge on internet-related issues. A total of three workshops/forums were reported from the three countries – Ghana, Nigeria and Sierra Leone. In Ghana, the MFWA organised a stakeholders' forum on cybersecurity in line with a cybersecurity policy brief the organisation had produced. In Nigeria, Paradigm Initiative Nigeria (PIN) organised a workshop on Internet Policy with a focus on digital security and the passed Cybercrime Bill for civil society organisations working on ICT for Development, Human Rights and/or Freedom of Expression, and the media. For Sierra Leone, the Human Rights Commission of Sierra Leone (HRCSL) organized a one-day workshop for its Commissioners and staff on the effective use of the social media for Human Rights Advocacy.

Conclusion and Recommendations

Findings from the monitoring reports as presented above show that generally, online freedom of expression is largely respected in most West African countries with pockets of occasional violations. While this is a positive development, some of the cases reported – as in the case of The Gambia and Sierra Leone – show a tendency towards criminalising online defamation, a situation which could result in a rise in self-censorship. Another case which has the potential to threaten online privacy and free speech is the implementation of SIM Registration laws which are specifically targeted at tracking and identifying individuals and groups which engage in ‘immoral’ and criminal activities.

While there is need for policy and regulatory frameworks to support improved, equitable and affordable access to a free, open and secure internet, this should be done in a positive rights-based environment involving all stakeholders. Policies and regulations that focus mainly on proscribing and punishing online content do not only create censorship, but limits and inhibits innovation and social, economic and political development.

The MFWA therefore calls on governments and sector regulators in the region to:

- To adopt right-based principles such as those espoused in the African Declaration on Internet Rights and Freedoms in formulating policies and regulations that govern access and use of the internet in their respective countries.
- Respect and protect the rights that people have offline, especially freedom of expression rights, online as well, to foster innovation, participatory governance and development.
- Decriminalise offline and online speech offenses.
- Ensure cybersecurity at the national and individual level while protecting and respecting privacy rights.