



The West Africa Internet Rights Monitor

MONITORING REPORT FOR JULY - SEPTEMBER 2017

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Executive Summary

The internet plays an important role as a platform for innovation, economic empowerment, development and the promotion of human rights, especially the right to freedom of expression. The internet has become a major facilitator of communication across the globe. It has enhanced and changed the way people connect, communicate and participate in governance processes. The introduction of internet-enabled devices has improved internet accessibility and use across the world, and the West Africa sub-region is no exception.

Some governments have, however, not been very comfortable with the democratisation of information and communication as a result of advances in fibre optic communication. Some of these governments are using various means to restrict freedom of expression online, including surveillance, the passage of repressive laws and the application of existing ones to restrict users' access and use of the internet.

To help highlight some of these positive and negative developments and advocate for redress of some of the violations in the digital environment, the Media Foundation for West Africa (MFWA) undertook a project to monitor the internet landscape in West Africa. Dubbed, *Enhancing Freedom of Expression Rights Online in West Africa through Policy Advocacy Campaign*, the project conducted a three-month monitoring of eight target countries –

Benin, Cote d'Ivoire, Ghana, Mali, Niger, Nigeria, The Gambia and Togo.

This report is generated from the collation of monthly monitoring reports gathered by MFWA's national partner organisations and monitors using a basic internet rights monitoring tool. It covers findings from the monitoring exercise undertaken between July-September 2017.

The report highlights emerging internet related issues and challenges in the target countries and makes recommendations for improving the internet freedom landscape in the eight target countries and West Africa as whole.

Inadequate infrastructure, high cost of data and poor service quality were identified as the major challenges to internet access and use. Findings from the monitoring also show the digital landscape in almost all the countries is generally free with marginal internet-specific laws regulating or suppressing online expression. During the monitoring period, eight internet-related incidents were recorded in four out of the eight countries.

To help improve the internet landscape in the target countries and West Africa, it is recommended that governments liaise with telecom operators and other private investors to improve infrastructure, bring down data costs and formulate policies and regulations that are rights-respecting.

Introduction

The internet continues to be a powerful enabler of innovation, economic empowerment, and social development. Fortunately, internet access and use is increasing across West Africa and the rest of the continent as a result of heavy investments from governments and the private sector. This positive expansion in the ICTs sector is opening up spaces for expression, involvement in public discourse, participation in governance processes and demand for accountability. The investments in the sector are also helping to gradually bridge the digital gap between urban and rural areas in some parts of the region. Indeed, the contributions of the ICTs sector to the growth and development of the region and the continent at large have been invaluable.

However, some governments in the region are gradually resorting to arbitrary network shutdowns, filtering and blocking, mass surveillance, and the application of existing and introduction of repressive laws in an attempt to control the internet. This move by some governments tends to limit spaces for expression, access to information, innovation and participation in social and political life. Arbitrary network shutdowns are becoming more rampant and worrying especially during elections and protests. As at the first quarter of 2017 for instance, about 18 African countries had partially or fully shut down the internet for one of the two reasons cited. Such governments hardly show any commitment or political will to protect rights online. These arbitrary interferences in internet connectivity by governments pose serious challenges to free expression, access to information, and

the exercise of other rights online.

As part of advocacy efforts to address these challenges, the Media Foundation for West Africa (MFWA) monitors, documents and reports on developments (positive and negative) around online freedoms, especially online violations, in West Africa. The monitoring reports are used to inform MFWA's advocacy work in shaping policy and legislations, and helping to create an enabling environment for online expression and the exercise of other rights. The monitoring reports are used to campaign against online repression and encourage governments in the region to adopt and implement rights-respecting internet-related policies that foster freedom on the internet. The monitoring reports also serve as reference materials for other internet rights activists and human rights groups and organisations. The monitoring and reporting of online developments, and the advocacy for progressive internet policies form part of MFWA's project titled *Enhancing Freedom of Expression Rights Online in West Africa through Policy Advocacy and Campaigns*, which is carried out with funding from Access Now.

The countries covered under the project are Benin, Côte d'Ivoire, Ghana, Mali, Niger, Nigeria, The Gambia and Togo. Monitoring reports from the eight countries are collated into quarterly reports and published as "The West Africa Internet Rights Monitor" (*The Internet Rights Monitor*). The *Internet Rights Monitor* is intended to serve as a reference material and to inspire evidence-based advocacy and policy dialogues on internet freedom.

Methodology

The MFWA's monitoring and reporting of developments around the exercise of rights in online spaces in West Africa is done by the organisation's national partner organisations and online rights monitors in the eight countries selected for the project. To facilitate the process, a basic internet freedom monitoring tool was developed and shared with the monitors. In addition, a manual that provides tutorials on the monitoring tool was reviewed, updated and shared with the monitors.

Using these tools, monitoring reports are submitted to the MFWA from each of the eight countries on a monthly basis. The country reports are collated and analysed into quarterly reports at the end of every three months. This edition of the report covers findings from the monitoring undertaken from July to September 2017 in the eight countries. It presents a brief contextual analysis relating to general developments in the countries monitored followed by specific findings from the eight countries. The report concludes with recommendations on the way forward.

General Findings

There is a general rise in internet penetration across the eight countries monitored. This is as a result of the increase in investments in the ICTs sector coupled with growing access and use of internet-enabled smartphones and other handheld devices. The introduction of 3G and 4G technologies in some countries have also helped to make the internet more accessible, even though only a small section of the population in such countries have access to the technology. Despite these improvements in the sector, many people in the region are still not connected as a result of inadequate infrastructure, high cost of data, unreliable services and a gap between urban and rural access to and use of the internet.

Cost of data was generally high across the countries monitored. For the eight target countries, Nigeria had a relatively cheaper data cost of US\$2.7 for one gigabyte which is about 5.4 percent of the average monthly income. Mali on the other hand, had relatively, the highest cost of data. One gigabyte of internet data cost US\$13.5 which is about 21.4 percent of the average monthly income in Mali.

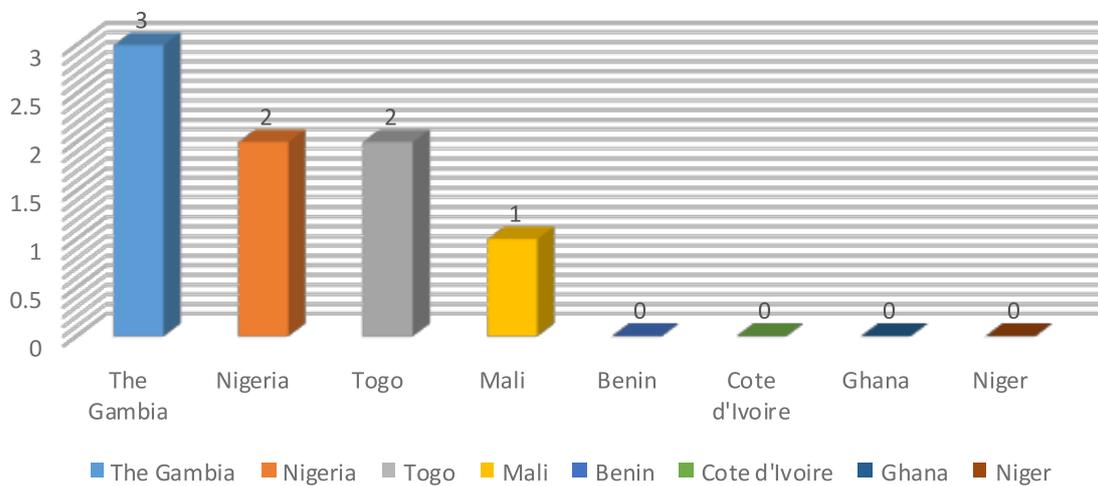
In terms of practices, the internet environment in the target countries were generally free with no internet-specific laws, except the cybercrime law in Nigeria and the cybercrime Act 2013-451 in Côte d'Ivoire.

Specific Findings

Although the internet environment is relatively free in almost all the countries under review, state and non-state actors sometimes act in ways to suppress online expression and other rights. During the period under review, 8 internet-related incidents were recorded in four out of the eight countries – Mali, Nigeria,

The Gambia and Togo. The incidents involved an internet shutdown as well as arrests of individuals by state officials following their activities online. In Figure 2 below, all the countries monitored are presented along with the frequency of violations cited in each country.

Number of Internet Related Incidents recorded in each country



Country- specific Findings

The country-specific findings from the monitoring of the internet freedom situation in the eight target countries are presented below. The findings cover violations cited in the countries, challenges, and/ or other developments captured over the three-month monitoring period.



Benin

In June 2017, the National Assembly of Benin passed Law 2017-20 (also known as Code Numérique) which was to come into force subject to approval by the courts. With the exception of this policy development, the country did not have any specific internet-related regulation or development. However, the internet environment in the country was generally free. In the period under review, no online violation was recorded in Benin even though it is believed that incidents of hacking of websites and emails happened without being reported.

Benin had its 6th Internet Governance Forum on July 20-22, 2017. The forum, which brought together various stake-

holders, discussed among other things, internet services and data security. The country also hosted the 9th edition of the West African Internet Governance Forum (WAIGF). The Forum, which was held on July 27-28, 2017, sought to promote Internet Governance issues in West Africa through a multi-stakeholder process. The theme for the Forum was Digital Security for Socio-economic Development and Peace in West Africa. Recommendations from the WAIGF included the need for extensive education and sensitisation on online privacy and security, robust child online protection strategies, and the application of the principles of the African Declaration on Internet Rights and Freedoms.

Côte d'Ivoire



Côte d'Ivoire's internet environment continued to be generally free with no known restrictions except provisions in the cybercrime Act 2013-451. High data costs, low connectivity and general access challenges remained some of the main issues hampering internet access and use in the country.

During the quarter under review, three telecom operators –MTN Côte d'Ivoire, Orange Côte d'Ivoire and Moov– were fined for poor services. The regulatory authority for telecommunications-ICT, ARTCI, fined the three telecom operators following a 2016 study on the quality of internet services, SMS services and voice services. The sanctions represented 0.50

percent of Orange's turnover, 0.61 percent of MTN and 0.95 percent of Moov's turnover. The turnover was in reference to the financial year 2015 on audited services and not on all activities. Apart from the sanctions, there were general abusive exchanges on social media platforms between political rivals in the country.

The Internet Society in Cote d'Ivoire organised the 8th Annual Africa Peering and Interconnection Forum (AfPIF) in Abidjan. The event was aimed at providing a framework for ISPs across the continent to discuss expanding infrastructure and services, lowering the cost of internet, and providing access to more people.



Ghana

Ghana has one of the very vibrant and competitive telecommunications markets in West Africa. The country's internet environment is generally free with no known restrictions in accessing and using the internet. But there are occasional incidents of abuses following peoples' expression online.

Internet access continued to improve across the country following government and private sector investments and increased use of smartphones with internet connectivity. In the period under review, for example, the National Communications Authority (NCA) announced it was giving opportunity to telecommunication companies to deploy 3G services to rural areas. In line with the announcement, on September 7, 2017, the NCA permitted Mobile Network Operators (MNOs) with existing 2G licenses to deploy Universal Mobile Telecommunications Systems (UMTS), which is a 3G technology, in unserved and underserved communities across the country.

In terms of policy interventions in the internet environment, the quarter under review witnessed one development. Ghana's Minister of Communications tasked the Broadband Communications Chamber to start holding industry forums and dialogues to review the National Broadband Policy and the Telecoms Policy.

Other developments in the internet landscape included a number of meetings and conferences. A cyber security awareness

workshop was organised by Delta3 International (a Ghana based Information Security Advisory Company with head office in UK) in collaboration with the Ministry of Communications on July 19, 2017. The Network of Communication Reporters (NCR) in partnership with MTN Ghana also organised a stakeholders' dialogue during which Ghana's Minister of Communications highlighted some consumer complaints and asked the NCA to work with the appropriate stakeholders to resolve the challenges. The 7th edition of the MTN Internet Festival (IFEST) was also held at the Kumasi City Mall in the Ashanti Region of Ghana. The event was used to challenge Medium and Small Scale Enterprises (SMEs), corporate organisations and businesses in Ghana to take advantage of the internet to improve productivity and bridge the technological gap in the delivery of services to their clients. A social media week was also organised in the course of the quarter.

In spite of the relatively active landscape, high data cost and unreliable services remain major challenges for internet access and use in the country. Even though there are occasional violations following online expression and other activities, the three-month monitoring period, did not record any violations. There were, however, two incidents in which some individuals wrongfully published nude pictures of others online and another incident in which an 18-year old lady shared her nude video online. All the perpetrators were arrested and interrogated and/or arraigned before a court.

Mali



The internet environment in Mali was also generally free with no internet specific laws. Even though the country's ICTs sector is gradually growing, internet access remains a challenge especially outside the capital. Despite the fact that there is 3G connectivity in the country, accessing the service is often a challenge for many people. In view of this, when Orange Mali announced the launch of 4G in Mali during the period under review, it was received with some anxiety as to what the 4G will come with. Orange Mali, however, began deploying the 4G services in the district of Bamako (in the Malian capital).

Another challenge Malians face in accessing the internet is the issue of cost. Data cost in the country is very high (about US\$13 for 1G) and this is denying many the opportunity to access the potential of the internet. But for those who are able to access the internet, they are generally free to use the internet to access information and express themselves despite the fact that there are occasional violations resulting from online expression.

Over the three-month monitoring period, Mali recorded one internet-related incident. One Madou Kanté, owner of the "Madou Ka Journal" was attacked on July 25, 2017 at about 1am. The attackers fired several shots at him. However, he survived the attack. The attack was rumoured to be as a result of his online criticisms about the activities of the government. The attackers were not identified, and no investigation was conducted as Madou Kante decided not to pursue the matter following a visit by government and opposition officials while he was at the hospital.

In spite of the challenges highlighted, some important discussions were held about the future of the internet in Mali. On September 19, 2017, the Malian chapter of Internet Society (ISOC Mali) organised a conference to mark the 25th anniversary of the Internet Society under the theme "What's the future of internet? What are the challenges, and prospects for our country?" The conference was well attended by stakeholders from government, service providers, consumer groups and civil society organisations.



Nigeria

Internet access continued to grow steadily in Nigeria owing to investments in the sector and the increasing availability and use of mobile broadband. Although the internet environment is generally free, people are sometimes harassed for their online expressions and other activities. In the period under review, for instance, two individuals were victimised as a result of their online expressions.

A journalist based in Katsina, northern Nigeria, Danjuma Kastina, was detained on July 15, 2017, over alleged injurious comments he posted on Facebook about a lawmaker, Hon. Mansur Mashi. Following pressure from the Nigerian Guild of Editors (NGE), Danjuma was released on July 16.

In another incident, Biodun Baba, a teacher from Kwara State, was fired from his job for criticising the Nigerian Senate President on Facebook. Criminal charges were also filed against him by one Alhaji Jimoh Adesina, a party official from Nigeria's ruling political party. Following the complaint, Baba was arraigned before a Magistrate Court. Biodun was however set free and all charges leveled against him dropped after public outcry.

During the quarter, one significant issue also came up in the country. In an alarming revelation, the Director of Defence Information of the Nigerian Army, Major-General John Enenche, said on Channels Television on August 23, 2017

that the military was monitoring social media for hate speech and contents that were “anti-military and anti-government.” His comments came after the Nigerian President said in his national broadcast that some discussions on social media “crossed the national red lines.” This led to fear and panic amongst the public as no one knew exactly what activity on social media could be construed as anti-government. Civil society was concerned that the announcement could lead to widespread self-censorship on social media.

To address this, the Partnership for Media and Democracy (PAMED) called on the Federal Government to restrain the Nigerian Army from monitoring the social media activities of Nigerians and described the action as a violation of the fundamental rights and freedoms of Nigerians especially their rights to freedom of expression and privacy guaranteed by the Constitution and international human rights instruments to which Nigeria is a party. The Socio-Economic Rights and Accountability Project (SERAP), and civic group, Concerned Nigerians, also called on the president to respect the freedom of Nigerians on all social media platforms.

In another development, a Twitter handle that was created by an unknown individual/group claimed to be monitoring social media users for inappropriate content. It was quickly brought to the attention of the Presidency office of Digital Engage-

ment (PODE). PODE took the issue up with Twitter and after looking into the handle, Twitter took it down when it was discovered that the account was created to cause tension.

One of the positive developments taking place in the Nigerian internet landscape is the proactive proposal of the Digital Rights and Freedom Bill which is being championed by Paradigm Initiative with support from other civil society organisations. The Bill seeks to safeguard the rights of online users. The Bill has passed the second reading at the Nigerian House of Representatives.

While the Bill was being pushed, a number of meetings and conferences were also held in the country to discuss internet- and ICTs-related issues in the country. On

July 20, 2017, a Roundtable on Digital Rights was organised in Abuja by Paradigm Initiative and the Presidency Office of Digital Engagement. The Roundtable, which brought together government, security agencies and civil society organisations, discussed how to respect digital rights while actively neutralising misinformation. Then on September 6-7, 2017, the 3rd edition of the INDO-Africa ICT Expo was held in Lagos Nigeria under the theme “Digital vision of the developing nations.” Also, the Nigerian Chapter of ISOC joined their counterparts across the globe to mark the 25th anniversary of the Internet Society at the Nigeria internet registration association (NIRA) office in Lagos. A digital media strategist also organised a New Media Conference in Lagos on the theme “Excellence in New Media Practices” with a focus on fake news.



Niger

The internet landscape in Niger is improving gradually with a remarkable enhancement of freedom of expression and access to information. Niger has 931,548 internet users as at June, 2017. This figure represents about 4.3% of the population.

The internet landscape is faced with challenges such as high cost of data, unavailability of network and inadequate infrastructure. The country recorded no incident of violation during the July–September monitoring period.



The Gambia

Many Gambians access the internet via mobile devices such as mobile phones. Just about less than one percent of users subscribe to fixed-broadband services. Cost remains one of the primary hindrances to internet access in The Gambia.

During the period under review, some individuals were harassed and arrested for their online activities. Four soldiers, including middle to high-ranking officers, were arrested for being part of a WhatsApp group chat that allegedly discussed mutinous acts. According to a statement by the Gambia Armed Forces on July 20, 2017, a Board of Inquiry had been convened to look into circumstances surrounding the creation of the group.

In a related incident, Lance Corporal Samboujang Bojang, who is a member of the WhatsApp group was picked up at the Fajara camp by Military Police. He was in detention without court appearance for several days after which he was taken to the State Intelligence Services (SIS). He was later hospitalized after alleging torture at the SIS headquarters. He was later returned to his detention cell at the

Guards Battalion in Fajara Barracks.

On August 28, 2017, Baboucarr Kebbeh a youth activist working with the National Youth Council was called for questioning by the Permanent Secretary of the Ministry of Youth and Sports. This happened after he wrote a comment on Facebook criticising the Minister for Youth and Sports for the way he was managing the Ministry. He was asked by the Permanent Secretary to delete the Facebook post or he will be sued in court. He, however, did not delete the post. There was no legal action taken against him.

A positive development recorded in The Gambia during the period was the development and launch of a Comprehensive Strategic Framework for Media Sector Reform and Development. The Framework was developed through a collaborative process involving the MFWA, the Gambia Press Union and the Ministry of Information and Communications Infrastructure. The Framework among other things highlights the need for the repeal of laws such as Communication Act which has provisions that infringe on freedom of expression rights particularly internet-related expression.

Togo



Togo was the only country amongst the eight being monitored that recorded a network shutdown and disruption. The network shutdown and disruption both occurred during political unrests. The country recorded some disruption of network services on the eve of September 6, 2017 and a complete network shutdown (affecting both the internet and SMS services) that day ahead of planned demonstrations on the September 6-7, 2017. The internet was restored on September 10.

Nine days later, the country again experienced network disruptions. The network disruption also started on the eve of Sep-

tember 20, ahead of planned demonstrations scheduled for September 20-21, 2017. The network disruption affected mainly some social media platforms such as WhatsApp and Facebook as well as SMS services. Even though the internet appeared to be working once in a while on the September 20, the connection was very weak which prevented people from using it.

These incidents greatly affected general communications and online expression and access to information in particular. They also brought about significant economic losses.

Conclusion and Recommendations

The Media Foundation for West Africa's (MFWA) monitoring of internet rights developments across West Africa from July to September 2017 shows that there is a general rise in internet penetration across the eight countries monitored. However, connectivity challenges still persist as a result of inadequate infrastructure, high cost of data services and unreliable services. These challenges continue to widen the digital gap between urban and rural areas.

The internet and the ICTs sector in many of the countries remain unregulated. This may be contributing to abuses going on unnoticed and/or unpunished. In spite of the generally unregulated landscape, however, only a few of the internet-related activities organised in the countries monitored focused on policy issues. The other events cited were mainly conferences and workshops.

The monitoring cited eight internet-related violations from four of the eight target countries. Victims of these violations were individuals who commented on issues or criticised others on social media, and soldiers who were members of a WhatsApp group chat on which there were alleged mutinous acts. In the network disruption and shutdown that occurred in Togo, all Togolese online users were affected.

Altogether, the eight internet-related violations may be considered relatively few after monitoring eight countries over a three-month period. They, however, suggest that there is a possibility of being attacked following online expression, and also, a possibility of political unrest leading to network disruptions and shutdowns as have been experienced in other parts of the continent. The

developments in Nigeria also seem to suggest that some security agencies and/or other state agencies may be monitoring online communication without public knowledge.

In consideration of the findings and their possible implications, it is recommended that

- Both state and non-state actors should be sensitised to recognise that the right to freedom of expression which is legally guaranteed in national constitutions and applied offline must also be protected online as indicated in Resolution 68/167 of the UN General Assembly.
- Governments should resort to amicable solution for national and political unrest other than disrupting or shutting down networks.
- Monitoring of online communications – whether targeted or en mass – should only be undertaken following a court order/ warrant.
- Governments should liaise with telecom operators and other private investors to improve infrastructure, bring down data costs and ensure reliable service delivery.
- At all times, internet-related policy and regulations should be rights-respecting, done through a multistakeholder approach, and guided by international best practices Internet users should always seek redress whenever their rights are violated.
- Online platforms and applications should be used responsibly by all.

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